9-18-87
Vol. 52 No. 181
Pages 35215-35394

federal register

Friday
September 18, 1987

FEDERAL REGISTER Published daily, Monday through Friday, (not published on Saturdays, Sundays, or on official holidays), by the Office of the Federal Register, National Archives and Records Administration, Washington, DC 20408, under the Federal Register Act (49 Stat. 500, as amended; 44 U.S.C. Ch. 15) and the regulations of the Administrative Committee of the Federal Register (1 CFR Ch. I). Distribution is made only by the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402.

The **Federal Register** provides a uniform system for making available to the public regulations and legal notices issued by Federal agencies. These include Presidential proclamations and Executive Orders and Federal agency documents having general applicability and legal effect, documents required to be published by act of Congress and other Federal agency documents of public interest. Documents are on file for public inspection in the Office of the Federal Register the day before they are published, unless earlier filing is requested by the issuing agency.

The **Federal Register** will be furnished by mail to subscribers for $340.00 per year, or $170.00 for 6 months, payable in advance. The charge for individual copies is $1.50 for each issue, or $1.50 for each group of pages as actually bound. Remit check or money order, made payable to the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402.

There are no restrictions on the republication of material appearing in the **Federal Register.**

Questions and requests for specific information may be directed to the telephone numbers listed under INFORMATION AND ASSISTANCE in the READER AIDS section of this issue.

How To Cite This Publication: Use the volume number and the page number. Example: 52 FR 12345.

Contents

Federal Register
Vol. 52, No. 181
Friday, September 18, 1987

Reader Aids
Additional information, including a list of public laws, telephone numbers, and finding aids, appears in the Reader Aids section at the end of this issue.

CFR PARTS AFFECTED IN THIS ISSUE

A cumulative list of the parts affected this month can be found in the Reader Aids section at the end of this issue.

Rules and Regulations

Federal Register
Vol. 52, No. 181
Friday, September 18, 1987

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Parts 27, 28, and 61

Revision of User Fees for Cotton Classification, Testing, and Standards

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Interim rule with request for comments.

SUMMARY: This rule revises the fees for cotton classification services to producers. The revision, which will result in a fee increase, is in accordance with the recent amendment to section 3a of the Cotton Statistics and Estimates Act which provides continuing authority to the Secretary of Agriculture to recover costs associated with cotton classing services through the fiscal year ending September 30, 1992.

This rule also increases fees for certain other cotton classification and testing services and cottonseed grading services. Fees charged for the purchase of American Upland and American Pima cotton and linters grade and staple standards, and for calibration cotton standards are also increased. The higher fees are necessary to recover, as nearly as practicable, the costs of providing such services including administrative and supervisory costs.

DATES: Effective September 21, 1987; comments must be received on or before 45 days after publication in the **Federal Register.**

ADDRESS: Fred S. Mullins, Cotton Division, AMS, USDA, Washington, DC 20250.

FOR FURTHER INFORMATION CONTACT: Fred S. Mullins, (202) 447-2145.

SUPPLEMENTARY INFORMATION: This interim rule has been reviewed in accordance with Executive Order 12291 and Departmental Regulation 1512-1 and has been determined to be "non-major" since it does not meet the criteria for a major regulatory action as stated in the Order.

The Administrator, Agricultural Marketing Service (AMS), has certified that this action will not have a significant economic impact as defined by the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) because: (1) The fee increases merely reflect only a modest increase in the cost-per-unit currently borne by those entities utilizing the services; (2) the cost increases will not affect competition in the marketplace; (3) the amounts of the increases in fees are needed to continue to provide services at the levels desired by the industry; and (4) the use of the services is voluntary. The Secretary is authorized to recover the costs of cotton classification, standards and the testing services from users of such services and standards. The fee revisions contained herein reflect the recent amendment of the Cotton Statistics and Estimates Act, as well as the added costs incurred for providing the various services.

The information collection requirements contained in this interim rule have been previously approved by the Office of Management and Budget and assigned OMB control numbers under the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 et seq.).

Classification Fee for Producers

Section 3a of the Cotton Statistics and Estimates Act of 1927 (7 U.S.C. 473a), as amended on August 20, 1987, extends the Secretary's authority to recover costs associated with cotton classification services through fiscal year 1992. Absent the amendment, authority to collect fees would have expired at the end of fiscal year 1988. The statute directs the Secretary, within certain limitations, to set the user fee at a level that when combined with the proceeds from the sale of samples submitted for classification would recover, as nearly as practicable, the cost of the service provided, including administrative and supervisory costs. Prior to the recent amendment, the law (1) prohibited the amount of the uniform per bale classification fee in any year from exceeding the uniform fee collected in the previous year by more than the percentage increase in the Implicit Price Deflator for Gross National Product as indexed during the most recent twelve-month period for which statistics were available, and (2) prohibited an increase in the fee for any year if the accumulated reserve exceeded 20 percent of the cost of the classification program in the previous year. Under the amendment, the uniform classing fee will be established each year by adjusting the base fee for the previous year for inflation (Implicit Price Deflator for Gross National Product). After adjusting for inflation, the Secretary may increase or decrease the inflation adjusted fee by a percentage factor based on the size of the crop. Adjustments cannot exceed 15 percent, except when fees and other income will not provide a 10 percent operating reserve for the current fiscal year. The Secretary is authorized to make adjustments whenever the income generated from fees and other sources is insufficient to maintain an operating reserve of at least 10 percent. The amendment also authorizes an increase in the operating reserve from 20 to 25 percent and if income from fees and other sources is insufficient to maintain a 25 percent reserve, the Secretary is authorized to add a special surcharge of up to 5 cents per bale. However, the Secretary to the extent practicable shall not establish a fee when combined with all other sources of revenue and adjusted for expenses that would result in a projected operating reserve greater than 25 percent.

The fee for manual classification of producers' cotton was set at $1.08 per sample during the 1986 harvest season (7 CFR 28.909(b); 51 FR 22059 at 22063). This rule increases the classification fee for manual classification services to producers in § 28.909 from $1.08 to $1.20 per sample. This new fee is calculated using the 1986 classing fee ($1.08) and adding a three percent increase over the 1986 fee due to the Implicit Price Deflator amounting to an increase of three cents and a five cents per bale surcharge to re-establish the operating reserve. However, the resulting eight cents per bale increase, in addition to all other sources of revenue, has been determined to be inadequate to produce the ten percent operating reserve. Therefore, a supplemental fee adjustment of four cents per bale is added resulting in a twelve cents per bale increase and a manual classing fee of $1.20 per sample. The current 1987-1988 cotton crop is estimated to be 12.5

million running bales. Therefore, no adjustment in the fees is based upon the size of the projected crop. The additional fee for High Volume Instrument (HVI) classification is established presently at 50 cents per sample, resulting in an HVI classing fee of $1.70 per sample. The discount to voluntary centralized billing and collecting agents will remain five cents per bale.

The fee in paragraph (b) of § 28.910 for issuance of a new memorandum of classification at the request of the owner of the cotton for the business convenience of the owner without the reclassification of such cotton is increased from $3.00 to $4.00 per sheet due to the increased costs of providing this service, including clerical costs.

The fee for a manual review classification in § 28.911 is also increased from $1.15 to $1.20 per sample. The fee for HVI review classification is increased from $1.65 to $1.70 per sample. These fees reflect the increased costs of performing these services, including overhead and equipment costs.

Costs of Cotton Standards

Practical forms of the cotton standards are prepared and sold by the Cotton Division offices in Memphis, Tennessee, under the authority of the United States Cotton Standards Act (7 U.S.C. 51 *et seq.*). The Omnibus Budget Reconciliation Act of 1981 (Pub. L. 97–35) directs that the price for standards will cover, as nearly as practicable, the costs of providing the standards.

This rule increases the fees listed in §§ 28.123 and 28.151 for practical forms of the cotton standards, including both grade aud staple standards for American Upland cotton, American Pima cotton and for cotton linters. The fees need to be adjusted due to increased costs for salaries, packaging, handling, delivery, and postage. Current and estimated demand for the standards has also been factored into the fee revision since per unit costs are directly related to volume.

Costs have increased due to the new Federal Employees Retirement System (FERS) which became effective in January 1987. Under this system the Agency is required to pay the full contribution for retirement benefits for employees hired before January 1, 1984, who convert to FERS and all employees hired on or after January 1, 1984, who are automatically entered in FERS. Previously, a portion of these costs were subsidized by an appropriation from another federal agency. AMS' contribution for retirement benefits can increase by as much as 15.5 percent. Finally, the charges must be adjusted upward to cover losses incurred between January of this year and the effective date of the fee increase.

The fees for American Upland cotton grade standards are increased from $94.00 to $100.00 f.o.b. Memphis, Tennessee, or overseas air freight collect. The price is increased from $98.00 to $104.00 for domestic surface delivery and from $134.00 to $140.00 for overseas air parcel post delivered. The fees for American Upland staple standards f.o.b. Memphis and overseas air freight collect are increased from $13.00 to $14.00. The domestic surface delivered fee is increased from $15.00 to $16.00 and the overseas air parcel post delivered fee is increased from $27.00 to $28.00. The fees for American Pima grade standards are raised from $120.00 to $126.00 f.o.b. Memphis or overseas air freight collect. The fee increases from $124.00 to $130.00 for domestic surface delivered and from $160.00 to $166.00 for overseas air parcel post delivered. Fees for American Pima staple standards increase from $14.00 to $15.00 for f.o.b. Memphis and overseas air freight collect. The domestic surface delivered fee increases from $16.00 to $17.00 and the overseas air parcel post delivered fee is increased from $28.00 to $29.00. The fees for linters grade standards is increased from $94.00 to $100.00 f.o.b. Memphis or overseas air freight collect. The price for domestic surface delivery increases from $98.00 to $104.00 and the price for overseas air parcel post delivery is increased from $134.00 to $140.00. The f.o.b. Memphis or overseas air freight collect fees for linters staple standards are raised from $15.00 to $16.00. The delivered price increases from $17.00 to $18.00 for domestic and from $29.00 to $30.00 for overseas air parcel post.

Other Classification Services

Certain other cotton classification services are conducted under the United States Cotton Standards Act. Fees for these services have been reviewed. In order to recover increased costs, including supervision and overhead, fees for classification of cotton or samples in § 28.116 are increased by 15 cents: for grade, staple and micronaire readings from $1.15 per sample to $1.30; for grade and staple only from $1.00 per sample to $1.15; and for grade only or staple only from 75 cents to 90 cents.

The fee in § 28.117 for each new memorandum or certificate issued in substitution for a prior one is increased from $3.00 per sheet to $4.00. The additional hourly fee charged for Form C determinations in §§ 28.120 and 28.149 increases from $17.00 per hour or each portion thereof to $18.00 per hour, or each portion thereof, plus traveling expenses and subsistence or per diem. The fee in § 28.122 for a complete practical classing examination for cotton or cotton linters is increased from $120.00 to $125.00 and the fee for reexamination for a failed part, either grade or staple, increases from $70.00 to $75.00. Fees for the classification, comparison, or review of linters in § 28.148 are increased from $1.05 to $1.20 per bale or sample involved. In § 28.184, the fee for classification or comparison of cotton linters and the issuance of a memorandum is raised from $1.05 to $1.20 per sample.

The United States Cotton Futures Act (7 U.S.C. 15b) authorizes the Secretary to make such regulations as are necessary to carry out the provisions of that Act. Pursuant to that authority, Part 27 of the regulations (7 CFR Part 27) provides for cotton classification under the Cotton Futures Act including fees to recover the costs of classification and micronaire. Under this rule, the fees charged for the services are increased to cover the costs of providing such services, including overhead costs.

These fees have been reviewed and the fees in § 27.80 for initial classification are increased from $1.05 per bale to $1.20 per bale; for review classification is increased from $1.25 per bale to $1.40 per bale; and for combination service from $2.30 per bale to $2.60 per bale. All supervision fees are increased by five cents. Pursuant to § 27.85, fees for withdrawal of requests or applications for review, after such services have been started, are the same as the fees in § 27.80 for services completed, so such charges are affected by this rule. Fees for certificates which appear in § 27.81 increase from 55 cents to 60 cents.

Cottonseed Grading Fees

Pursuant to the Agricultural Marketing Act of 1946 (7 U.S.C. 1621 *et seq.*) the Secretary is authorized to assess and collect such fees as will be reasonable and cover as nearly as practicable the cost of services rendered under the Act. The regulations promulgated pursuant to that Act for the inspection, sampling, and certification of cottonseed sold or offered for sale for crushing purposes (7 CFR Part 61) includes such fees. Under this rule, the fees charged for cottonseed grading purposes are increased to cover the costs of providing these services, including increased overhead costs.

The fee in § 61.43 for a sampler's license is increased from $19.00 to $20.00 for the examination while the fee for renewal of such a license is increased from $17.00 to $18.00. In § 61.44, the fee

for a chemist's license is increased from $350.00 to $360.00 for the examination while the fee for renewal of such a license increases from $120.00 to $125.00. In § 61.45, those fees charged to each licensed cottonseed chemist to cover the cost of administering the regulations in Part 61 are increased from $1.30 per certificate issued by the chemist to $1.35. The fee in § 61.46 for the review of the grading of any lot of cottonseed is increased from $51.00 to $54.00 with the disbursement to each of the two licensed chemists who performed the reanalysis increasing from $17.00 to $18.00. All of these increases reflect increases in program costs including clerical and administrative costs and rent, utilities, and communications.

Testing Services

Cotton testing services are provided by a USDA Laboratory in Clemson, South Carolina under the authority of the Cotton Statistics and Estimates Act of 1927 (7 U.S.C. 471–478). The tests are available, upon request, to private sources on a fee basis. The Cotton Service Testing Amendment (7 U.S.C. 473d) specifies that the fees for the services be reasonable and cover as nearly as practicable the costs of rendering the services.

Operating costs for providing testing services have increased due to higher costs for salaries, rent, utilities, communications, supplies and materials. Costs have also increased due to the new Federal Employees Retirement System (FERS) which became effective in January 1987. Under this system the Agency is required to pay the full contribution for retirement benefits for employees hired before January 1, 1984, who convert to FERS and all employees hired on or after January 1, 1984, who are automatically entered in FERS. Previously, a portion of these costs were subsidized by an appropriation from another federal agency. AMS' contribution for retirement benefits can increase by as much as 15.5 percent. Finally, the charges must be adjusted upward to cover losses incurred between January of this year and the effective date of the fee increase.

The fees for fiber and processing tests in § 28.956, except item 14.1, are increased.

AMS is removing item 1.0, the USDA calibration cotton series, from the list of fiber and processing tests of § 28.956. These cottons have been used primarily for the calibration of the length by Fibrograph and ⅛-inch gage fiber strength tests. Standard values for these tests have been added to the International Calibration Cotton Series, item 2.0. The USDA calibration cotton series also has standard values for the length by array and causticaire tests. The array and causticaire tests are performed in very few laboratories and demand for the USDA calibration cottons for use with these tests is nonexistent. AMS has determined that it is no longer cost effective to maintain the USDA calibration cottons. Therefore, item 1.0 is removed and the items following 1.0 are renumbered as set forth below.

The current item numbers and new item numbers are as follows:

Previous item No.	New item No.	Fee	
		Previous	New
1.0a		$22.00	Remove
1.0b		24.00	Remove
1.0c		22.00	Remove
1.0d		36.00	Remove
2.0a	2.0a	14.00	$15.00
2.0b	2.0b	15.00	16.00
2.0c	2.0c	14.00	15.00
2.0d	2.0d	24.00	25.00
2.1a	2.1a	22.00	23.00
2.1b	2.1b	24.00	25.00
2.1c	2.1c	22.00	23.00
2.1d	2.1d	36.00	37.00
3.0a	13.0a	60.00	65.00
3.0b	13.0b	95.00	103.00
3.0c	13.0c	115.00	125.00
3.1a	13.1a	45.00	48.00
3.1b	13.1b	65.00	70.00
3.1c	13.1c	90.00	97.00
3.2	13.2	110.00	117.00
3.5a	14.0a	20.00	22.00
3.5b	14.0b	25.00	27.00
3.5c	14.0c.5c	30.00	32.00
4.0	7.0	8.00	8.50
4.1	7.1	5.00	5.50
5.0	8.0	8.00	8.75
5.1	8.1	5.00	5.50
5.2a	9.0a	8.00	8.75
5.2b	9.0b	6.00	6.50
5.2c	9.0c	5.00	5.50
6.0	11.0	9.00	10.00
Minimum		45.00	50.00
6.1	12.0	5.00	6.00
7.0	10.0	.50	.55
7.1	10.1	.25	.30
8.0	16.0	13.00	14.00
9.0	20.0	100.00	105.00
9.1	20.1	75.00	80.00
10.0	21.0	90.00	95.00
11.0	22.0	130.00	140.00
12.0	23.0	185.00	200.00
13.0	24.0	205.00	220.00
14.0	19.0	75.00	80.00
14.1	18.0	25.00	25.00
15.0	25.0	27.00	29.00
15.1	25.1	37.00	40.00
16.0a	26.0a	70.00	75.00
16.0b	26.0b	20.00	22.00
17.0	27.0	10.00	11.00
17.1	28.0	4.00	4.50
17.2	28.1	6.00	6.50
18.0	29.0	16.00	17.00
18.1	29.1	27.00	29.00
19.0	6.0	1.00	1.08
20.0	3.0	90.00	95.00
20.1	3.1	10.00	15.00
20.2	4.0	20.00	25.00
20.3	4.1	10.00	12.00
21.0	31.0	2.00	2.50
22.0a	15.0a	7.00	7.50
22.0b	15.0b	12.00	13.00
23.0	32.0	2.50	3.00
24.0	33.0	1.00	1.10
24.1	33.1	10.00	12.00
25.0	5.0	1.60	1.60
26.0a	1.0a	80.00	84.00
26.0b	1.0b	84.00	88.00
26.0c	1.0c	80.00	84.00
26.0d	1.0d	120.00	124.00
27.0	27.0	4.00	4.50
Minimum		20.00	22.50
28.0	34.0	10.00	12.00
Minimum		30.00	36.00

Pursuant to 5 U.S.C. 553, it is found that it is impracticable, unnecessary, and contrary to the public interest to give preliminary notice and engage in further public procedure with regard to this action and that good cause exists for not postponing the effective date of this rule until 30 days after publication in the **Federal Register** because the fee increases contained herein need to be put into effect as soon as possible to adequately fund the various services provided and to comply with the recent amendment to the Cotton Statistics and Estimates Act. The current crop season is already under way and the AMS should start billing under the new fee schedules as soon as possible.

List of Subjects

7 CFR Part 27

Cotton, Classification, Samples, Micronaire, Spot markets.

7 CFR Part 28

Cotton, Samples, Standards, Cotton Linters, Grades, Staples, Market news, Testing.

7 CFR Part 61

Cottonseed, Chemists, Samplers, Grades.

Accordingly, for reasons set forth in the preamble, 7 CFR Parts 27, 28, and 61 are amended as follows:

PART 27—[AMENDED]

1. The authority citation for Part 27 continues to read as follows:

Authority: 90 Stat. 1841–1846; 7 U.S.C. 15b.

2. Sections 27.80 (a), (b) and (d) through (h), and 27.81 are revised to read as follows:

§ 27.80 Fees; classification, micronaire, and supervision.

For services rendered by the Cotton Division pursuant to this subpart, whether the cotton involved is tenderable or not, person requesting the services shall pay fees as follows:

(a) Initial classification and certification—$1.20 per bale.

(b) Review classification and certification—$1.40 per bale.

* * * * *

(d) Combination service—$2.60 per bale. (Initial classification, review classification, and Micronaire determination covered by the same request and only the review

classification and Micronaire determination results certified on cotton class certificates.)

(e) Supervision, by a supervisor of cotton inspection, of the inspection, weighing, or sampling of cotton when any two or more of these operations are performed together—$1.35 per bale.

(f) Supervision, by a supervisor of cotton inspection, of the inspection, weighing, or sampling of cotton when any one of these operations is performed individually—$1.35 per bale.

(g) Supervision, by a supervisor of cotton inspection, of transfers of cotton to a different delivery point, including issuance of new cotton class certificates in substitution for prior certificates—$2.45 per bale.

(h) Supervision, by a supervisor of cotton inspection, of transfers of cotton to a different warehouse at the same delivery point, including issuance of new cotton class certificates in substitution for prior certificates—$1.70 per bale.

§ 27.81 Fees; certificates.

For each new certificate issued in substitution for a prior certificate at the request of the holder thereof, for the purpose of business convenience, or when made necessary by the transfer of cotton under the supervision of any exchange inspection agency as provided in § 27.73, the person making the request shall pay a fee of 60 cents for each certificate issued.

PART 28—[AMENDED]

3. The authority citation for Subpart A of Part 28 continues to read as follows:

Authority: Sec. 5, 50 Stat. 62, as amended (7 U.S.C. 55); Sec. 10, 42 Stat. 1519 (7 U.S.C. 61).

Subpart A—[Amended]

4. Section 28.116 is amended by revising paragraph (a) to read as follows:

§ 28.116 Amounts of fees for classification; exemption.

(a) For the classification of any cotton or samples, the person requesting the services shall pay a fee, as follows, subject to the additional fee provided by paragraph (c) of this section.

(1) Grade, staple, and micronaire reading—$1.30 per sample.

(2) Grade, staple only—$1.15 per sample.

(3) Grade only or staple only—90 cents per sample.

* * * * *

5. Sections 28.117, 28.120, and 28.122 are revised to read as follows:

§ 28.117 Fee for new memorandum or certificate.

For each new memorandum or certificate issued in substitution for a prior memorandum or certificate at the request of the holder, thereof, on account of the breaking or splitting of the lot of cotton covered thereby or otherwise for his business convenience, the person requesting such substitution shall pay a fee of $4.00 per sheet.

§ 28.120 Expenses to be borne by party requesting classification.

For any samples submitted for Form A or Form D determinations, the expenses of inspection and sampling, the preparation of the samples and delivery of such samples to the classification room or other place specifically designated for the purpose by the Director shall be borne by the party requesting the classification. For samples submitted for Form C determinations, the party requesting the classification shall pay the fees prescribed in this subpart and, in addition, a fee of $18.00 per hour, or each portion thereof, plus the necessary traveling expenses and subsistence, or per diem in lieu of subsistence, incurred on account of such request, in accordance with the fiscal regulations of the Department applicable to the Division employee supervising the sampling.

§ 28.122 Fee for practical classing examination.

The fee for the complete practical classing examination for cotton or cotton linters shall be $125.00. Any applicant who passes both parts of the examination may be issued a certificate indicating this accomplishment. Any person who passes one part of the examination, either grade or staple, and fails to pass the other part, may be reexamined for that part that was failed. The fee for this practical reexamination is $75.00.

6. Section 28.123 is revised to read as follows:

§ 28.123 Costs of practical forms of cotton standards.

The costs of practical forms of the cotton standards of the United States shall be as follows:

Effective date: September 21, 1987	Dollars each box or roll			
	Domestic shipments		Shipments delivered outside the continental United States	
	F.o.b. Memphis Tenn.	Surface delivery	Air freight collect	Air parcel post delivered
Grade Standards:				
American Upland	$100.00	$104.00	$100.00	$140.00
American Pima	126.00	130.00	126.00	166.00
Standards for Length of Staple:				
American Upland (prepared in one-pound rolls for each length)	14.00	16.00	14.00	28.00
American Pima (prepared in one-pound rolls for each length)	15.00	17.00	15.00	29.00

7. Sections 28.148 and 28.149 are revised to read as follows:

§ 28.148 Fees and costs; classification; reviews; other.

The fee for the classification, comparison, or review of linters with respect to grade, staple, and character or any of these qualities shall be at the rate of $1.20 for each bale or sample involved. The provisions of §§ 28.115 through 28.126 relating to other fees and costs shall, so far as applicable apply to services performed with respect to linters.

§ 28.149 Fees and costs; Form C determination.

For samples submitted for Form C determinations, the party requesting the classification shall pay the fees prescribed in this subpart and, in addition, a fee of $18.00 per hour, or each portion thereof, plus the necessary traveling expenses and subsistence, or per diem in lieu of subsistence, incurred or account of each request, in accordance with the fiscal regulations of the Department applicable to the

Division employee supervising the sampling.

8. Section 28.151 is revised to read as follows:

§ 28.151 Cost of practical forms for linters, period effective.

Practical forms of the official cotton linters standards of the United States will be furnished to any person subject to the applicable terms and conditions specified in § 28.105; *Provided,* that no practical form of any of the official cotton linters standards of the United States for grade shall be considered as representing any such standards after the date of its cancellation in accordance with this subpart, or, in any event, after the expiration of 12 months following the date of its certification. The cost of the practical forms of cotton linters standards of the United States shall be as follows:

Effective date: Sept. 21, 1987	Dollars each box or roll			
	Domestic shipments	Shipments delivered outside the continental United States		
	F.o.b. Memphis Tenn.	Surface delivery	Air freight collect	Air parcel post delivered
Linters grade standards (6 sample box for each grade)	$100.00	$104.00	100.00	$140.00
Linters staple standards (prepared in one pound rolls for each length)	16.00	18.00	16.00	30.00

Subpart B—[Amended]

9. The authority citation for Subpart B of Part 28 continues to read as follows:

Authority: Sec. 205, 60 Stat. 1090, as amended; 7 U.S.C. 1624.

10. Section 28.184 is revised to read as follows:

§ 28.184 Cotton linters; general.

Requests for the classification or comparison of cotton linters pursuant to this subpart and the samples involved shall be submitted to the Cotton Division. All samples classed shall be on the basis of the official cotton linters standards of the United States. The fee for classification or comparison and the issuance of a memorandum showing the results of such classification or comparison shall be $1.20 per sample.

Subpart D—[Amended]

11. The authority citation for Subpart D of Part 28 continues to read as follows:

Authority: Sec. 3a, 50 Stat. 62, as amended (7 U.S.C. 473a); Sec. 3c, 50 Stat. 62 (7 U.S.C. 473c); unless otherwise noted.

12. Paragraph (b) of § 28.909 is revised to read as follows:

§ 28.909 Costs.

* * * * *

(b) The cost of manual cotton classification service to producers is $1.20 per sample.

* * * * *

13. Paragraph (b) of § 28.910 is amended by revising it to read as follows:

§ 28.910 Classification of samples and issuance of classification data.

* * * * *

(b) Upon request of an owner of cotton for which classification memoranda have been issued under this subpart, a new memorandum shall be issued for the business convenience of such owner without the reclassification of the cotton. Such rewritten memorandum shall bear the date of its issuance and the date or inclusive dates of the original classification. The fee for a new memorandum shall be $4.00 per sheet.

14. Section 28.911 is amended by revising it to read as follows:

§ 28.911 Review classification.

A producer may request one manual or one High Volume Instrument (HVI) review classification for each bale of eligible cotton. The fee for manual review classification is $1.20 per sample. The fee for HVI review classification is $1.70 per sample. Samples for review classification must be drawn by gins or warehouses licensed pursuant to § 28.20–28.22, or by employees of the United States Department of Agriculture. Each sample for review classification shall be taken, handled, and submitted according to § 28.908 and to supplemental instructions issued by the Director or an authorized representative of the Director. Costs incident to sampling, tagging, identification, containers, and shipment for samples for review classification shall be assumed by the producer. After classification the samples shall become the property of the Government unless the producer requests the return of the samples. The proceeds from the sale of samples that become Government property shall be used to defray the costs of providing the services under this subpart. Producers who request return of their samples after classing will pay a fee of 25 cents per sample in addition to the fee established above in this section.

Subpart E—[Amended]

15. The authority citation for Subpart E of Part 28 continues to read as follows:

Authority: Sec. 3c, 50 Stat. 62 (7 U.S.C. 473c); Sec. 3d, 55 Stat. 131 (7 U.S.C. 473d).

16. Section 28.956 is amended by revising entry numbers and fees to read as follows:

§ 28.956 Prescribed fees.

Fees for the fiber and processing tests shall be assessed as listed below:

Item No.	Kind of test	Fee per test
1.0	Calibration cotton for use with High Volume Instruments, per 5 pound package:	
	a. f.o.b. Memphis, Tennessee	$84.00
	b. By surface delivery within continental United States	88.00
	c. By air freight collect outside continental United States	84.00
	d. By air parcel post delivery outside continental United States	124.00
2.0	Furnishing international calibration cotton standards with standard values for micronaire reading and fiber strength at zero and ⅛-inch gage and Fibrograph length:	
	a. f.o.b. Memphis, Tennessee, ½-lb. sample	15.00
	b. By surface delivery within continental United States, ½-lb sample	16.00
	c. By air freight collect outside continental United States, ½-lb sample	15.00
	d. By air parcel post delivery outside continental United States, ½-lb sample	25.00
2.1	Furnishing international calibration cotton standards with standard values for micronaire reading only:	
	a. f.o.b. Memphis, Tennessee, 1-lb sample	23.00
	b. Surface delivery within continental United States, 1-lb sample	25.00
	c. By air freight collect outside continental United States, 1-lb sample	23.00
	d. By air parcel post delivery outside continental United States, 1-lb sample	37.00
3.0	Furnishing color standards, including a set of standard tiles and a master diagram for use in calibrating Nickerson-Hunter Cotton Colorimeters, per set	95.00
3.1	Furnishing replacement calibration tiles for above sets, each tile	15.00

Item No.	Kind of test	Fee per test
4.0	Furnishing a Colorimeter calibration sample box containing 6 cotton samples with color values Rd and +b plotted on a color diagram based on the Nickerson-Hunter Cotton Colorimeter, per box	25.00
4.1	Furnishing new Colorimeter readings on samples in calibration boxes returned for check readings, per 6-sample box	12.00
5.0	High Volume Instrument (HVI) measurement. Reporting micronaire, length, length uniformity, ⅛-inch gage strength, color and trash content. Based on a 6 oz. (170 g) sample, per sample	1.60
6.0	Color of ginned cotton lint. Reporting data on the reflectance and yellowness in terms of Rd and b values as based on the Nickerson-Hunter Cotton Colorimeter on samples which measure 5×6-½ inches and weigh approximately 50 grams, per sample	1.08
7.0	Fiber length of ginned cotton lint by Fibrograph method. Reporting the average length and average length uniformity as based on 4 specimens from a blended sample, per sample	8.50
7.1	Fiber length of ginned cotton lint by Fibrograph method. Reporting the average length and average length uniformity as based on 2 specimens from each unblended sample	5.50
8.0	Pressley strength of ginned cotton lint by flat bundle method for either zero of ⅛-inch gage as specified by applicant. Reporting the average strength as based on 6 specimens from a blended sample, per sample	8.75
8.1	Pressley strength of ginned cotton lint by flat bundle method for either zero or ⅛-inch gage as specified by applicant. Reporting the strength as based on 2 specimens for each unblended sample, per sample	5.50
9.0	Stelometer strength and elongation of gainned cotton lint by the flat bundle method for ⅛-inch gage. Reporting the average strength and elongation:	
	a. Based on 6 specimens from each blended sample, per sample	8.75
	b. Based on 4 specimens from each blended sample, per sample	6.50
	c. Based on 2 specimens from each blended sample, per sample	5.50
10.0	Micronaire readings on ginned lint. Reporting the micronaire based on 2 specimens per sample	.55
10.1	Micronaire reading based on 1 specimen per sample	.30
11.0	Fiber maturity and fineness of ginned cotton lint by the Causticaire method. Reporting the average maturity, fineness, and micronaire reading as based on 2 specimens from a blended sample, per sample	10.00
	Minimum fee	50.00
12.0	Fiber fineness and maturity of ginned cotton lint by the IIC–Shirley Fineness/Maturity Tester method, reporting the average micronaire, maturity ratio, percent mature fibers and fineness (linear density) based on 2 specimens from a blended sample, per sample	6.00
13.0	Fiber length array of cotton samples. Reporting the average percentage of fibers by weight in each ⅛-inch group, average length and average length variability as based on 3 specimens from a blended sample:	
	a. Ginned cotton lint, per sample	65.00
	b. Cotton comber noils, per sample	103.00
	c. Other cotton wastes, per sample	125.00
13.1	Fiber length array of cotton samples. Reporting the average percentage of fibers by weight in each ⅛-inch group, average length, and average length variability as based on 2 specimens from a blended sample:	
	a. Ginned cotton lint, per sample	48.00
	b. Cotton comber noils, per sample	70.00
	c. Other cotton wastes, per sample	97.00
13.2	Fiber length array of cotton samples, including purified or absorbent cotton. Reporting the average percentage of fibers by weight in each ⅛-inch group, average length and average length variability as based on 3 specimens from a blended sample, per sample	117.00
14.0	Fiber Length and Length Distribution of cotton samples by the Almeter method. Reporting the upper 25 percent length, mean length, coefficient of variation, and short fiber percentages by weight, number of tuft in each ⅛-inch group, as based on 2 specimens from a blended sample:	
	a. Report percentages of fiber by weight only	22.00
	b. Report percentages of fiber by weight and number of tuft	27.00
	c. Report percentages of fiber by weight, number and tuft	32.00
15.0	Foreign matter content of cotton samples. Reporting data on the non-lint content as based on the Shirley Analyzer separation of lint and foreign matter.	
	a. For samples of ginned lint or comber noils, per 100-gram specimen	7.50
	b. For samples of ginning and processing wastes other than comber noils, per 100-gram specimen	13.00
16.0	Neps content of ginned cotton lint. Reporting the neps per 100 square inches as based on the web prepared from a 3-gram specimen by using accessory equipment with the mechanical fiber blender, per sample	14.00
17.0	Sugar content of cotton. Reporting the percent sugar content as based on a quantitative analysis of reducing substances (sugars) on cotton fibers, per sample	4.50
	Minimum fee	22.50
18.0	Miniature carded cotton spinning test. Reporting data on tenacity (centinewtons per tex) of 22's yarn and HVI data (see item 5.0). Based on the processing of 50 grams of cotton in accordance with special procedures per sample	25.00
19.0	Two-pound cotton carded yarn spinning test available to cotton breeders only. Reporting data on yarn skein strength, yarn appearance, yarn neps and the classification and the fiber length of the cotton as well as comments on any unusual processing performance as based on the processing of 2 pounds of cotton in accordance with standard procedures into two standard carded yarn numbers employing a standard twist multiplier, per sample	80.00
20.0	Cotton carded yarn spinning test. Reporting data on waste extracted, yarn skein strength, yarn appearance, yarn neps and classification, and fiber length as well as comments summarizing any unusual observations as based on the processing of 6 pounds of cotton in accordance with standard laboratory procedures at one of the standard rates of carding of 6½, 9½, or 12½ pounds-per-hour into two of the standard carded yarn number of 8s, 14s, 22s, 36s, 44s, or 50s, employing a standard twist multiplier unless otherwise specified, per sample	105.00
20.1	Cotton carded yarn spinning test (open-end) for short staple (^{5}⁄$_{32}$nd inches and shorter) cottons. Reporting data on waste extracted, yarn skein strength, yarn appearance, yarn neps, and classification and fiber length as well as comments summarizing any unusual observations as based on the processing of 6 pounds of cotton in accordance with standard laboratory procedures at a carding rate of 12½ pounds-per-hour into 8s using a sliver weight of 60 grains per yard; a rotor speed of 45,000 RPM; and opening roll speed of 7,200 RPM; a twist multiple of 4.5; and a rotor diameter of 46 millimeters	80.00
21.0	Spinning potentials test. Determining the finest yarn which can be spun with no ends down and reporting spinning potential yarn number. This test requires an additional 4 pounds of cotton, per sample	95.00
22.0	Cotton combed yarn spinning test. Reporting data on waste extracted, yarn skein strength, yarn appearance, yarn neps, and classification and fiber length as well as comments summarizing any unusual observations as based on the processing of 8 pounds of cotton in accordance with standard procedures at one of the standard rates of carding of 4½, 6½, or 9½ pounds per hour into two of the standard combed yarn numbers of 22s, 36s, 44s, 50s, 60s, 80s, or 100s employing a standard twist multiplier unless otherwise specified, per sample	140.00
23.0	Cotton carded and combed yarn spinning test. Reporting the results as based on the processing of 10 pounds of cotton into two of the standard carded and two of the standard combed yarn numbers employing the same carding rate and the same yarn numbers for both the carded and the combed yarns, per sample	200.00
24.0	Cotton carded and combed yarn spinning test. Reporting the results as based on the processing of 9 pounds of cotton into two of the standard combed yarn numbers employing different carding rates and/or yarn numbers for the carded and combed yarns, per sample	220.00
25.0	Processing and testing of additional yarn. Any carded or combed yarn number processed in connection with spinning tests including either additional yarn numbers or additional twist multipliers employed on the same yarn numbers, per additional lot of yarn	29.00
25.1	Processing and furnishing of additional yarn: Any yarn number processed in connection with spinning tests. Approximately 300 yards on each of 16 paper tubes for testing by the applicant, per additional lot of yarn	40.00
26.0	Twist in yarns by direct-counting method. Reporting direction of twist and average turns per inch of yarn:	
	(a) Single yarns based on 40 specimens per lot of yarn	75.00
	(b) Plied or cabled yarns based on 10 specimens, per lot of yarn	22.00
27.0	Skein strength of yarn. Reporting data on the strength and the yarn numbers based on 25 skeins from yarn furnished by the applicant per sample	11.00
28.0	Appearance grade of yarn furnished on bobbins by applicant. Reporting the appearance grade in accordance with ASTM standards as based on yarn wound from one bobbin, per bobbin	4.50
28.1	Furnishing yarn wound on boards in connection with yarn appearance tests	6.50
29.0	Strength of cotton fabric. Reporting the average warp and filling strength by the garb method as based on 5 breaks for both warp and filling of fabric furnished by the applicant, per sample	17.00
29.1	Cotton fabric analysis. Reporting data on the number of warp and filling threads per inch and weight per yard of fabric as based on at least three (3) 6×6-inch specimens of fabric which were processed or furnished by the applicant, per sample	29.00
30.0	Chemical finishing tests on finisher drawing sliver. The Ahiba Texomat Dyer is used for scouring, bleaching and dyeing of a 3-gram sample. Color measurements are made on the unfinished, bleached and dyed cotton samples, using a Hunterlab Colorimeter, Model 25 M-3. The color values are reported in terms of reflectance (Rd), yellowness (+b) and blueness (−b)	12.00
	Minimum fee	36.00
31.0	Furnishing copies of test data worksheets. Includes individual observations and calculations which are not routinely furnished to the applicant, per sheet	2.50

Item No.	Kind of test	Fee per test
32.0	Furnishing identified cotton samples. Includes samples of ginned lint stock at any stage or processing or testing, waste of any type, yarn or fabric selected and identified in connection with fiber and/or spinning tests, per identified sample	3.00
33.0	Furnishing additional copies of test reports. Include extra copies in addition to the 2 copies routinely furnished in connection with each test item, per additional sheet	1.10
33.1	Furnishing a certified relisting of test results. Includes samples or sub-samples selected from any previous tests, per sheet	12.00
34.0	Classification of ginned cotton lint is available in connection with other fiber tests, under the provisions of 7 CFR § 28.56, at the fees prescribed by 7 CFR § 28.116. Classification includes grade, staple, and micronaire reading based on a 6 oz (170 g) sample.	

PART 61—[AMENDED]

16. The authority citation for Subpart A of Part 61 continues to read as follows:

Authority: Sec. 205, 60 Stat. 1090, as amended, (7 U.S.C. 1624, unless) otherwise noted.

Subpart A—[Amended]

17. Sections 61.43, 61.44, 61.45 and 61.46 are revised to read as follows:

§ 61.43 Fee for sampler's license.

In the examination of an applicant for a license to sample and certificate official samples of cottonseed the fee shall be $20.00, but no additional charges shall be made for the issuance of a license. For each renewal of a sampler's license, the fee shall be $18.00.

§ 61.44 Fee for chemist's license.

For the examination of an applicant for a license as a chemist to analyze and certificate the grade of cottonseed the fee shall be $360.00, but no additional charge shall be made for the issuance of a license. For each renewal of a chemist's license the fee shall be $125.00.

§ 61.45 Fee for certificates to be paid by licensee to Service.

To cover the cost of administering the regulations in this part each licensed cottonseed chemist shall pay to the Service $1.35 for each certificate of the grade of cottonseed issued by the licensee. Upon receipt of a statement from the Service each month showing the number of certificates issued by the licensee, such licensee will forward the appropriate remittance in the form of a check, draft, or money order payable to the "Agricultural Marketing Service, USDA."

§ 61.46 Fees for the review of grading of cottonseed.

For the review of the grading of any lot of cottonseed, the fee shall be $54.00. Remittance to cover such fee, in the form of a check, draft, or money order payable to the "Agricultural Marketing Service, USDA" shall accompany each application for review. Of each such fee collected, $18.00 shall be disbursed to each of the two licensed chemists designated to make reanalysis of such seed.

Dated: September 14, 1987.

J. Patrick Boyle,

Administrator, Agricultural Marketing Service.

[FR Doc. 87-21467 Filed 9-17-87; 8:45 am]

BILLING CODE 3410-02-M

Food and Nutrition Service

7 CFR Parts 272 and 277

[Amd. No. 284]

Food Stamp Program; Automation of Data Processing (ADP) Model Plan

AGENCY: Food and Nutrition Service, USDA.

ACTION: Final rule/analysis of comments.

SUMMARY: This action contains final regulations setting forth a model plan and requirements for State agency plans for the comprehensive automation of data processing (ADP) and computerization of information systems (CIS) under the Food Stamp Program (FSP), as required by the Food Security Act of 1985. This action will improve automation in the Food Stamp Program. State agencies must submit ADP plans by October 1, 1987. Proposed regulations were published in the **Federal Register** of February 6, 1987. Comments on the proposal were solicited through March 23, 1987. This final rulemaking takes the comments received into account.

DATES: Effective September 18, 1987, except for § 272.1(g)(92) which is not effective until OMB clearance is obtained. State agencies must submit ADP/CIS plans by October 1, 1987. They must begin to implement these plans October 1, 1988.

FOR FURTHER INFORMATION CONTACT: Questions regarding this rulemaking should be directed to Patricia Warner, Chief, Administration and Design Branch, Program Development Division, Food and Nutrition Service, USDA, 22302, (703) 756-3383.

SUPPLEMENTARY INFORMATION:

Effective Date

Since the law requires submission of the ADP model plan by October 1, 1987, good cause exists pursuant to 5 U.S.C. 553(d) for publication of this rule less than 30 days from its effective date.

Classification

Executive Order 12291

The Department has reviewed this action under Executive Order 12291 and Secretary's Memorandum No. 1512-1. It has been determined that this action would not result in an annual effect on the economy of $100 million or more; and it will not have significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets. Therefore, the Department has classified this action as "not major".

Executive Order 12372

The Food Stamp Program is listed in the Catalog of Federal Domestic Assistance under No. 10.551. For the reasons set forth in the Final rule related Notice to 7 CFR Part 3015, Subpart V (48 FR 29115), this program is excluded from the scope of Executive Order 12372 which requires intergovernmental consultation with State and local officials.

Regulatory Flexibility Act

This action has also been reviewed in relation to the requirements of the Regulatory Flexibility Act of 1980 (Pub. L. 96-354, 94 stat. 1164, September 19, 1980). S. Anna Kondratas, Administrator of the Food and Nutrition Service (FNS), has certified that this action will not have a significant economic impact on a substantial number of small entities. This action simply results in development of a model plan and State agency plans which will improve the efficiency and cost effectiveness of the FSP through the effective use of ADP and information retrieval systems.

Paperwork Reduction Act

Information collection requirements contained in this regulation have been submitted to the Office of Management and Budget under the provisions of the Paperwork Act of 1980 (Pub. L. 96-511) and will not be effective until OMB has approved them.

Background

On February 6, 1987, the Department published in the **Federal Register** (52 FR 3817) a Notice of Proposed Rulemaking (NPRM) which proposed a model plan

and requirements for State agency plans for the Comprehensive automation of data processing (ADP) and computerization of information systems (CIS) under the Food Stamp Program, as required by the Food Security Act of 1985. Although the comment period on the NPRM closed March 23, 1987, the Department accepted comments until April 14, 1987. This action contains an analysis of the *significant* comments received, addresses the changes made and not made, and sets forth the final rulemaking. Readers may need to refer to the NPRM for a more complete understanding of the Department's actions or public comments on those actions.

The Department received 94 comments from a total of 16 commenters. The Department received comments from 13 individual State agencies, one private industry organization, the Department Office of the Inspector General, and the State agency Advisory Committee which had assisted in the development of the NPRM. (This group represented seven State agencies and met with FNS March 19 and 20, 1987.) FNS has carefully considered all of the comments received. As a result, clarifications have been made to the preamble and the rule. These changes, along with significant comments which were not adopted, are explained below.

Preamble

Several commenters had questions and concerns about the Functionally Automated Client Transaction System (FACTS) document (a detailed model for States to use in developing Statewide automated program systems) which FNS had offered to provide as technical assistance for State agencies. More than a dozen individuals and organizations requested copies of FACTS and copies were provided to the seven members of the State Advisory Committee. One commenter suggested that FACTS be mandated because of its controls designed to reduce fraud and inefficiency and its compliance with OMB Circular A-90. The same commenter wanted FACTS to be updated at least annually. Other commenters wanted FACTS and the Family Assistance Management Information System (FAMIS) to be consistent whenever possible and one commenter wondered whether FNS would rely heavily on FACTS to approve ADP/CIS plans or Advance Planning Documents (APDs).

In response to these comments, FNS wants to clarify that FACTS was offered in the NPRM as a technical assistance document. It was not intended that State agencies attempt to be certified under the FACTS system, as they may be under the FAMIS system, or that FNS Regional Offices would use FACTS to approve State ADP/CIS plans. Although FACTS *is* similar to the FAMIS system and is compatible with that system, to the extent possible, its basic purpose is somewhat different from FAMIS. FACTS was intended as a possible tool for State agencies which have not yet proceeded far in automation and are interested in knowing detailed functional requirements for the Food Stamp Program. It can be a useful starting point for discussions between State agencies as they consult with one another in developing and implementing their State plans, and it can be used as a checklist or tool for State agencies in evaluating their discussions. FACTS is not intended to be a substitute for State agency consultations, which FNS is strongly encouraging from the earliest stages of ADP/CIS plan development. Furthermore, the emphasis which will be placed on transfers of existing systems will make such consultations more important, and reliance on FACTS less important as the FACTS system has not actually been implemented in any State and so could not be transferred. Thus, we repeat that FACTS is technical assistance only and not a mandated document.

Section 272.2(e)(8)—Submittal Requirements.

Some commenters objected to the October 1, 1987 date for submission of their State plans and the October 1, 1988 date to begin implementing their plans. Some commenters objected to the 30-day turnaround State agencies are required to meet in making changes to their timely-submitted State plans in order to bring them into conformance with FNS standards. The Department is changing the time period for most State agencies to make revisions in their ADP/CIS plans. Based on comments from a number of commenters, the time period is being extended to 60 days because the previous 30-day period did not afford enough time in States where coordination among many different parts of the organization would have to take place. Some commenters suggested that FNS also have a deadline for reviewing State ADP plans. Section 272.2(e) already requires that State plan documents be approved or denied or additional information be requested within 30 days. Thus, ADP/CIS plans will automatically be approved within 30 days as a part of the State plan, unless a State agency hears otherwise. This does not mean that the State agency's APD would be approved, however.

There is no change in the dates State agencies must submit their ADP plans (October 1, 1987) or begin to implement them (October 1, 1988). These dates were specified by Pub. L. 99-198, section 1537. However, FNS believes that some commenters objected to these dates primarily because they believed that the amount of work involved on their parts was greater than that which is really expected by FNS. Thus, FNS is clarifying that a State ADP/CIS plan does not need to be as detailed as an APD. This is discussed further in the section of the preamble entitled § 272.10(a)—"Requirement to Automate". In addition, because of the limited time period between now and October 1, 1987, when State ADP/CIS plans are due, some State agencies may find it difficult to accomplish all of the planning necessary to develop their plans. Those State agencies may submit their ADP/CIS plans in two parts. The first part, which is required to be submitted October 1, 1987, would consist of an assessment of ADP status and needs. In this initial submission State agencies would indicate which functions in § 272.10 are automated and which are not. By January 1, 1988, the State agency would submit either a justification for not automating the functions which are not automated or a timetable and overall plan for the automation process. This two-step process should ease the burden in State ADP/CIS plan development. However, because of the need for the Department to send a report to the Congress on State agencies' automation status by April 1, 1988, the January 1, 1988 date cannot be extended and all State agencies must have approved ADP/CIS plans by March 1, 1988. Finally, FNS has clarified that when it is considering whether or not a State agency has "begun" to implement their ADP/CIS plan FNS will consider reasonable and substantial efforts on the part of the State agency to be a "beginning".

Section 272.10(a)—Requirement to Automate.

A number of commenters noted that FNS had a strong bias toward automation in the NPRM. One commenter supported this bias, noting that automation would increase productivity in the Food Stamp Program. However, four commenters objected, stating that the bias toward automation was inconsistent with the statutory language, was not what Congress intended, and did not give State agencies flexibility.

In response to comments, FNS reviewed the statute and the legislative history. When a similar provision was first introduced by Senator Boschwitz of Minnesota (*Congressional Record,* S 16270, November 22, 1985), he noted that, under it, States would be encouraged to automate the Food Stamp Program (FSP) and that the provision would increase the level of automation in the FSP.

H. Rpt. 99–271 on H.R. 2100, dated September 13, 1985, also addresses a provision similar to the enacted statute stating that the Secretary would not mandate a *particular* approach and that the Secretary's ability to mandate the use of computers would be intended to be limited to specific severe problems in a State.

FNS agrees with the commenters that the Congress intended to provide State agencies with some flexibility, consistent with sound program administration. However, the Department interprets the Congressional purpose behind the enacted statute to be to motivate State agencies to consider some additional automation as a result of this provision. Furthermore, the language of the statute specifically states that the Secretary's approval is required for a State's plan to reflect the State agency's existing system, thus emphasizing that maintenance of the status quo is not automatically intended. Thus, some bias toward automation would seem to be appropriate and consistent with the reason for passage of this legislation.

The *degree* of automation intended is at issue, however. Under the proposed rule, "State agencies are required to appropriately and efficiently automate their FSP operations." The proposal notes that some State agencies may have less automation than others depending on the efficiency and effectiveness of their programs. The preamble in the NPRM states that State agencies may, with FNS approval, elect to continue use of a manual system where that would be dictated by the individual circumstances of the State. Thus, a manual system is not precluded by the NPRM. What State agencies seem to be objecting to is the requirement in § 272.10(a)(2) that State agencies which do not plan to automate some of the activities specified in § 272.10(b) must include as part of their plans their reasons for not automating, and these reasons must include cost-effectiveness.

FNS believes that this is a reasonable requirement. However, State agencies may have differing expectations concerning what is an appropriate justification in the ADP/CIS plan for not automating a particular program area. Therefore, FNS' expectations need to be clarified. FNS is not requiring State agencies to undergo extensive studies or extensive cost/benefit analyses. Nor is it requiring State agencies to automate when automation would not be appropriate. Its primary interest is for State agencies to review the possibilities for automation in their States. If the State agency is automated in a particular area, it does not need to provide further information other than to state that it *is* automated in that area. If a State agency is not automated in an area, then a brief discussion of whether additional automation is needed is required. FNS does *not* intend to mandate automation in a particular State unless there is a significant problem that automation can solve. On the other hand, FNS is not willing to pay for unnecessary automation efforts, so State agencies should keep in mind that they should plan for *appropriate* levels of automation.

One commenter suggested that FNS provide a model format to help guide State agencies on what information should be in their plans and how FNS would like to see it presented. A checklist to guide State agencies in comparing their systems to the model plan is available from FNS Regional offices. Also, State agencies may wish simply to take the provisions in the model plan or in FACTS, section by section, and develop their own checklist or format.

Several comments were received on the relationship between the APD process and the ADP/CIS plans. One commenter suggested that FNS accept approved APDs in place of the ADP/CIS plan and that FNS identify any areas of incompleteness in the APD. Another commenter thought that State APDs needed to be updated to include the model plan requirements. One commenter wondered if the ADP/CIS plan and the APD need to be submitted simultaneously. In an effort to avoid duplication and to minimize the burden on State agencies, we are making some changes. All State agencies are now required to submit some type of ADP/CIS plan. However, the format and length of that plan will differ depending on the degree of automation within each State. The ADP/CIS plan will consist of one of the following:

1. For State agencies which are sufficiently automated in each area specified in § 272.10(b), a certification that they are automated in each area will be sufficient.

2. For State agencies which are sufficiently automated in some, but not all, areas specified in § 272.10(b), the State ADP/CIS plan would consist of two parts. The first part would be the State agency's certification as to the areas in which they *are* automated. The second part would concern the areas which are not automated or which, in the State agency's opinion, are not automated sufficiently. For each of these areas State agencies would include their plans for automating these areas, including their timeframes for any planned activities. State agencies which are not planning to automate each of the areas specified in § 272.10(b) or which are not already automated in these areas would have to provide justification.

3. For State agencies which are not sufficiently automated in any of the areas specified in § 272.10(b), the longest and most detailed ADP/CIS plan would have to be submitted. This would have to include timeframes for each activity planned or a justification of why they would not automate.

Regardless of the type of plan submitted, any justification for not automating must take cost/effectiveness into consideration.

Under §§ 276.4 and 277.16, State agencies which do not comply with food stamp regulations or the provisions of the FNS-approved plan of operation may have their administration of the FSP determined to be inefficient and/or ineffective and funds that would otherwise be paid may be disallowed. According to section 1537(c) of Pub. L. 99–198, funds may also be disallowed for failure to comply with provisions relating to the ADP/CIS plan. This is clarified in § 272.10(a), which had proposed that State agencies must automate appropriately and effectively. In response to comments, FNS is clarifying precisely which requirements must be met so as to avoid funds being disallowed. State agencies may have funds withheld for failure to submit, revise, or timely implement their ADP plans. Section 272.10(a) states:

> Appropriate and efficient automation levels are those which result in effective programs or in cost effective reductions in errors and improvements in management efficiency, such as decreases in administrative costs.

This should be the goal of any automation effort under the Food Stamp Program. Automation for automation's sake is not the objective of this rule. Although FNS considered the possibility of actually quantifying measures of "appropriate and effective" by suggesting that administrative costs or errors must decrease by a particular amount in a specified time period, FNS felt that it would be too narrow to focus on automation alone to reduce

administrative costs and errors. However, FNS is replacing the words "appropriate and efficient" with a synonym, "sufficient," in order to more closely tie in the regulation with the statute, which specifies that State agencies with sufficient ADP/CIS systems may have their State plans reflect their existing systems. We believe that this will provide State agencies with more flexibility because State agencies will not necessarily have to automate in order to retain funding. State agencies must consider automation, however; and they would have to either plan to automate or receive FNS approval of their plans justifying why they are not automating. If the planned automation is extensive enough or enhanced funding is desired, State agencies will have to submit or revise an APD. This would not be different from current rules when a rethinking of State agency needs results in a change in the APD. Thus, the goal of the ADP/CIS plan is not to displace existing State initiatives but to supplement them as appropriate.

One commenter wanted State agencies to have the right to appeal an FNS decision on whether they should automate a particular area. FNS will not, in general, be making the initial decision whether or not a State will automate an area. State agencies will be making these decisions and these will be approved by FNS. If FNS decides to withhold funds from a State agency as a result of its failure to develop or implement an approved ADP/CIS plan, State agencies retain the right to appeal this decision under § 276.1(b).

Section 272.10(a)(2) of the proposed rule also addressed the transfer of ADP systems from one State to another. What it proposed was that State agencies consider transferring a system from another State agency as part of the process of determining how the State agency would fulfill an identified automation need. Further, the proposal specified several reasons why a State agency might reject a possible transfer and said that these reasons would not be deemed adequate bases for such a rejection. The Department was strongly indicating its belief that the most cost effective means of fulfilling an identified automation need was through transfer.

Many comments were received on this proposed provision. Two commenters supported the strong emphasis on transfers, but many commenters opposed it. Those opposing it did not seem to be opposed to transfer *per se*. Rather, they were opposed to the restriction of State agency flexibility in planning ADP systems that was embodied in the rule. Many of these commenters pointed out that the reasons set forth in the preamble as unacceptable justifications for rejecting transfers were actually the best reasons for not doing transfers. Other commenters were confused as to how the assessment of transfers fit into this ADP planning process. In their view, the actual assessment of whether a particular transfer would be appropriate was more properly a part of the Advance Planning Document process rather than this process.

The Department carefully considered these comments and has made changes in the rule. One change made by the Department in this provision was to clarify how the consideration of transfers is to fit into the ADP planning process. After reviewing the proposal, the Department determined that much of the specific activity with regard to assessing the appropriateness of transfers needs to be done as part of the Advance Planning Document process. It is during that process that State agencies must develop specifications for systems and make choices as to how an operation is best automated. The ADP planning process which this rule establishes is much more general in nature. The Department is not expecting State agencies to be making choices of systems and commitments to particular methods of automation as part of the ADP planning process. Consequently, the Department decided to amend the Advance Planning Document process rules to ensure that transfers are given proper attention then. A proposed rule changing those procedures will be issued shortly and will reflect this change.

While the Department is adding language regarding transfers to the Advance Planning Document rules, it is not removing the language from the ADP plan rules. Even though the Department believes that the vast amount of work needed to be done in asssessing transfers will be done during the Advance Planning Document process, it also believes that the general ADP plans required by these rules must show that such work is scheduled. Therefore, these rules require that State agencies show in the plans they develop that they will consider transfers.

Another change has been in the way the reasons for rejecting transfers will be considered. In the proposal, the Department listed five reasons commonly cited for rejecting transfers and said that these would be unacceptable. In the final rule, we say that State agencies which cite any of these reasons should not expect *automatic* approval. Any State agency that cites one of these reasons for rejecting transfer will need to show why the barriers cannot be overcome. As noted above, this presentation by State agencies would be done as part of their development of an Advance Planning Document.

The final area of concern raised by commenters was how State agencies would find out about possible systems that could be transferred. Suggestions centered on having FNS act as a clearinghouse of information or a facilitator, matching State agencies with others that have potentially transferable systems. The Department recognizes that FNS has an important role to play in this regard and has changed this rule to indicate that State agencies that want assistance can turn to FNS to get it. The Agency will provide assistance as needed to any State agency needing help in identifying systems operated elsewhere that could fulfill their needs.

Section 272.10(b).

Several comments were made suggesting additional elements be added to the model plan and several commenter objected to items which were included. Some elements are being added to the provisions of the model plan, not to impose new requirements but to clarify proposed requirements. In response to comments, the listing of "other" elements that affect household eligibility in § 272.10(b)(1)(ii) will be expanded. No more elements will be required; more elements will be mentioned. Additional items mentioned will included disqualification actions, categorical eligibility, and employment and training status.

One commenter opposed the requirement in § 272.10(b)(1)(vi) that an approvable system must be able to "generate notices to other appropriate programs or recipient eligibility, changes, and referrals." We are, accordingly, clarifying this provision to read, "generate information, as appropriate, to other programs."

Two commenters had comments concerning the eventual direct transmisison of required data from State agencies to FNS. One commenter wanted FNS to allow for the manual adjustment of data in some cases, rather than it being entirely automated. Another commenter thought that the cost of a State agency's achieving compability with FNS' system should be borne by FNS. We agree that data should be manually adjusted at times, and we do not see human intervention as incompatible with a fully automated system. We are not adopting the second

comment. FNS funding authority is not increased by Public Law 99-198 so FNS could provide up to 75 percent funding for certain approved systems. However, State agencies are reminded that the NPRM only required them to provide for the *eventual* direct transmission of data to FNS.

A number of comments were received on the provision in the NPRM to withhold administrative funds from State agencies for noncompliance with this rule. One commenter supported this provision and proposed that the requirements in the FACTS document be used as the basis for determining what is an appropriate level of automation. FNS did not adopt this suggestion. As already discussed, FNS is not mandating use of the FACTS document in order for a State to receive its regular levels of funding.

The preamble of the proposed rule had noted that funds could be withheld if State agencies did not automate sufficiently and effectively. Two commenters wanted FNS to define "sufficiently and effectively".

We have given some consideration whether or how to define "sufficiently and effectively" in determining whether to withhold State Administrative funds. FNS wants to emphasize that we were not intending to establish "sufficient and effectively" as the sole criteria for withholding funds but was using this phrase as a shorthand for the provisions contained in the enacted statute and in § 276.4 of the regulations. Section 1537 of Pub. L. 99-198 states that State agencies which already have "sufficient" ADP and CIS systems may submit State plans which reflect their existing systems. We assume that the commenters required guidance on what is a sufficient system.

Therefore, FNS has revised § 272.10 to state that "sufficient automation levels are those which result in effective programs or in cost effective reductions in errors and improvements in management efficiency, such as decreases in program administrative costs." As noted earlier, FNS may withhold funds if a State agency does not submit an approvable plan in accordance with the deadlines or if the State agency does not comply with their approved plan.

A number of commenters also wanted FNS to provide for enhanced funding for the development and operation of automated systems, with one commenter wanting 90 percent enhanced funding, as HHS provides. One commenter stated that the model plan is almost identical to the basic requirements for enhanced funding while it, in itself, does not provide enhanced funding. State agencies are aware of the statutory and regulatory language describing the requirements which must be met in order to qualify for enhanced funding. FNS wants to acknowledge that State agencies which automate every area specified in § 272.10(b) would probably be eligible for 75 percent enhanced funding for the development of their systems if they were to apply for it. However, FNS does not have the legal authority to provide funding over 75 percent for the development of systems or funding over 50 percent for the operation of systems. FNS does not want to automatically provide enhanced funding for developing the State ADP/CIS plan because the State ADP/CIS plan could consist of a certification of an existing system or a type of exception report on an existing system, which would not necessarily involve procedures that would qualify for enhanced funding.

In the review process it was noted that the revision to § 277.18(a)(2) could mistakenly be interpreted to require implementation of the model plan as a requirement for receipt of 75 percent funding of State agency ADP efforts. As stated in the NPRM, this was not intended and the language of the final regulation has been modified to reflect the actual intent of FNS. In addition, the language of the regulation reflects that State agencies do not have to provide for the capability of directly transmitting data to FNS in order to receive 75 percent funding. The requirement to eventually directly transmit data to FNS was added to the program functional standards that had been in § 277.18(c) when they were proposed to be moved to § 272.10. It was intended that this requirement be taken into consideration when the State agencies developed their ADP/CIS plans and was meant to affect the ADP/CIS plans only. Accordingly, the language of the regulation is being amended to reflect the original intent that the eventual capability to directly transmit data to FNS is not a requirement to receive 75 percent funding.

List of Subjects

7 CFR Part 272

Alaska, Civil rights, Food stamps, Grant programs—social programs, Reporting and recordkeeping requirements.

7 CFR Part 277

Food stamps, Government procurement, Grant programs—social programs, Investigations, Reporting and recordkeeping requirements.

Accordingly, Parts 272 and 277 are amended as follows:

1. The authority citation for Parts 272 and 277 continues to read as follows:

Authority: 7 U.S.C. 2011-2029.

PART 272—REQUIREMENTS FOR PARTICIPATING STATE AGENCIES

2. In § 272.1, a new paragraph (g)(92) is added.

§ 272.1 General terms and conditions.

* * * * *

(g) *Implementation.* * * *

(92) Amendment No. 284. State agencies shall submit their ADP/CIS plans to FNS for approval no later than October 1, 1987. Portions of ADP/CIS plans may be submitted no later than January 1, 1988. Plans must be approvable within 60 days of State agency receipt of FNS comments but no later than March 1, 1988. State agencies must begin to implement provisions contained in their approved plans by October 1, 1988.

3. Section 272.2 is amended by:

a. Adding a new sentence at the end of paragraph (a)(2);

b. Adding a new paragraph (d)(1)(vi); and

c. Adding a new paragraph (e)(8).

The additions read as follows:

§ 272.2 Plan of operation.

(a) *General Purpose and Content—* * * *

(2) *Content.* * * * The ADP/CIS Plan is considered part of the State Plan of Operation but is submitted separately as prescribed under section 272.2(e)(8).

* * * * *

(d) *Planning Documents.*

(1) * * *

(vi) ADP/CIS Plan as required by section 272.10

* * * * *

(e) *Submittal Requirements* * * *

(8) *ADP/CIS Plan.* The ADP/CIS Plan shall be signed by the head of the State agency and submitted to FNS by October 1, 1987. State agencies which require additional time to complete their ADP/CIS plan may submit their plan in two phases as described in § 272.10(a)(2), with the first part of the plan being submitted October 1, 1987. State agencies requiring additional time shall submit the second part of their plans by January 1, 1988. If FNS requests additional information to be provided in the State agency ADP/CIS Plan or if FNS requests that changes be made in the State agency ADP/CIS Plan, State agencies must comply with FNS comments and submit an approvable ADP/CIS Plan within 60 days of their

receipt of the FNS comments but in no event later than March 1, 1988. Requirements for the ADP/CIS plan are specified in § 272.10.

* * * * *

3. A new § 272.10 is added to read as follows:

§ 272.10 ADP/CIS Model Plan.

(a) *General Purpose and Content*—(1) *Purpose.* All State agencies are required to sufficiently automate their food stamp program operations and computerize their systems for obtaining, maintaining, utilizing and transmitting information concerning the food stamp program. Sufficient automation levels are those which result in effective programs or in cost effective reductions in errors and improvements in management efficiency, such as decreases in program administrative costs. Thus, for those State agencies which operate exceptionally efficient and effective programs, a lesser degree of automation may be considered sufficient than in other State agencies. In order to determine a sufficient level of automation in each State, each State agency shall develop an ADP/CIS plan. FNS may withhold State agency funds under § 276.4(a) for failure to submit an ADP/CIS plan in accordance with the deadlines for submission, for failure to make appropriate changes in their ADP/CIS plan within 60 days of their receipt of FNS comments, or for failure to implement the approved ADP/CIS plan in accordance with the dates specified therein, unless extensions of time or deviations from the plan or schedules have been approved by FNS.

(2) *Content.* In developing their ADP/CIS plans, State agencies shall use one of the following three formats:

(i) State agencies which are sufficiently automated in each area specified in § 272.10(b) may provide a single certification statement that they are sufficiently automated in each area.

(ii) State agencies which are sufficiently automated in some, but not all, areas specified in § 272.10(b) shall submit an ADP/CIS plan which consists of two parts. The first part would be the State agency's certification as to the areas in which they are sufficiently automated. The second part would describe the areas of § 272.10(b) which the State agency has not automated or, in its opinion, has not automated sufficiently and include the State agency's plans for sufficiently automating these areas. State agencies shall include a description of how they intend to automate each area and a timetable for each planned activity, including a consideration of transfers as discussed in paragraph (a)(3) of this section. State agencies which are not planning to automate each of the areas specified § 272.10(b) or which are not already automated in these areas shall provide justification. Any such justification shall include a cost-effectiveness analysis.

(iii) State agencies which are not sufficiently automated in any of the areas specified in § 272.10(b) shall submit an ADP/CIS plan which describes their plans for sufficiently automating each area, including a timetable for each planned activity, including a consideration of transfers as discussed in paragraph (a)(3) of this section. State agencies which are not planning to automate each of the areas specified in § 272.10(b) or which are not, in their opinion, sufficiently automated in these areas shall provide justification. Any such justification shall include a cost-effectiveness analysis.

(3) *Transfers.* (i) State agencies planning additional automation shall consult with other State agencies and with the appropriate Regional Office to determine whether a transfer or modification of an existing system from another jurisdiction would be more efficient and cost effective than the development of a new system. In assessing the practicability of a transfer, State agencies should consult with other State agencies that have similar characteristics such as whether they are urban or rural, whether they are county or State administered, the geographic size of the States and the size of the caseload.

(ii) State agencies that plan to automate operations using any method other than transfers will need to be able to justify why they are not using transfers. The justification will need to include the results of the consultations with other State agencies, the relative costs of transfer and the system the State agency plans to develop, and the reasons for not using a transfer. Common reasons for not using transfers include: The State agency is required to use a central data processing facility and the (otherwise) transferable system is incompatible with it; the State agency's data base management software is incompatible with the transferable system; the State agency's ADP experts are not familiar with the software/hardware used by the transferable system and acquiring new expertise would be expensive; the transferable system is interactive or uses "generic" caseworkers, the receiving State agency does not and it would be expensive to modify the existing system and/or procedures; and transfer would provoke disputes with the State agency's personnel union. State agencies that cite any of these reasons shall not automatically receive approval to develop non-transferred systems. State agencies shall show what efforts were considered to overcome the problems and that those efforts are cost ineffective. This justification will need to be included as part of the Advance Planning Document that the State agency must submit for approval of its proposed system.

(iii) FNS will assist State agencies that request assistance in determining what other States have systems that should be considered as possible transfers.

(b) *Model Plan.* In order to meet the requirements of the Act and ensure the efficient and effective administration of the program, a food stamp system, at a minimum, shall be automated in each of the following program areas in paragraphs (b)(1), Certification, and (b)(2), Issuance Reconciliation and Reporting of this section. The food stamp system must further meet all the requirements in paragraph (b)(3), General, of this section.

(1) *Certification.* (i) Determine eligibility and calculate benefits or validate the eligibility worker's calculations by processing and storing all casefile information necessary for the eligibility determination and benefit computation (including but not limited to all household members' names, addresses, dates of birth, social security numbers, individual household members' earned and unearned income by source, deductions, resources and household size). Redetermine or revalidate eligibility and benefits based on notices of change in households' circumstances;

(ii) Identify other elements that affect the eligibility of household members such as alien status, presence of an elderly person in the household, status of periodic work registration, disqualification actions, categorical eligibility, and employment and training status;

(iii) Provide for an automatic cutoff of participation for households which have not been recertified at the end of their certification period;

(iv) Notify the certification unit (or generate notices to households) of cases requiring Notices of:

(A) Case Disposition,

(B) Adverse Action and Mass Change, and

(C) Expiration;

(v) Prior to certification, crosscheck for duplicate cases for all household members by means of a comparison with food stamp records within the relevant jurisdiction;

(vi) Meet the requirements of the IEVS system of § 272.8. Generate information, as appropriate, to other programs.

(vii) Provide the capability to effect mass changes: those initiated at the State level, as well as those resulting from changes at the Federal level (eligibility standards, allotments, deductions, utility standards, SSI, AFDC, SAA benefits);

(viii) Identify cases where action is pending or follow-up must be pursued, for example, households and verification pending or households containing disqualified individuals or a striker;

(ix) Calculate or validate benefits based on restored benefits or claims collection, and maintain a record of the changes made;

(x) Store information concerning characteristics of all household members;

(xi) Provide for appropriate Social Security enumeration for all required household members; and

(xii) Provide for monthly reporting and retrospective budgeting as required.

(2) *Issuance, reconciliation and reporting.* (i) Generate authorizations for benefits in issuance systems employing ATP's, direct mail, or online issuance and store all Household Issuance Record (HIR) information including: name and address of household, household size, period of certification, amount of allotment, case type (PA or NA), name and address of authorized representative, and racial/ethnic data;

(ii) Prevent a duplicate HIR from being established for presently participating or disqualified households;

(iii) Allow for authorized under- or over-issuance due to claims collection or restored benefits;

(iv) Provide for reconciliation of all transacted authorization documents to the HIR masterfile. This process must incorporate any manually-issued authorization documents, account for any replacement or supplemental authorization documents issued to a household, and identify cases of unauthorized and duplicate participation;

(v) Provide a mechanism allowing for a household's redemption of more than one valid authorization document in a given month;

(vi) Generate data necessary to meet Federal issuance and reconciliation reporting requirements, and provide for the eventual capability of directly transmitting data to FNS including:

(A) Issuance:

(*1*) FNS–259—Summary of mail issuance and replacement;

(*2*) FNS–250—Reconciliation of redeemed ATPs with reported authorized coupon issuance.

(B) Reconciliation: FNS–46—ATP Reconciliation Report.

(vii) Generate data necessary to meet other reporting requirements and provide for the eventual capability of directly transmitting data to FNS, including:

(A) FNS–101—Program participation by race;

(B) FNS–209—Status of claims against households; and

(C) FNS–388—Coupon issuance and participation estimates.

(viii) Allow for sample selection for quality control reviews of casefiles, and for management evaluation reviews;

(ix) Provide for program-wide reduction or suspension of benefits and restoration of benefits if funds later become available and store information concerning the benefit amounts actually issued;

(x) Provide for expedited issuance of benefits within prescribed timeframes;

(xi) Produce and store a participation history covering three (3) year(s) for each household receiving benefits.

(xii) Provide for cutoff of benefits for households which have not been recertified timely; and

(xiii) Provide for the tracking, aging, and collection of recipient claims and preparation of the FNS–209, Status of Claims Against Households report.

(3) *General.* The following functions shall be part of an overall State agency system but need not necessarily be automated:

(i) All activities necessary to meet the various timeliness and data quality requirements established by FNS;

(ii) All activities necessary to coordinate with other appropriate Federal and State programs, such as AFDC or SSI;

(iii) All activities necessary to maintain the appropriate level of confidentiality of information obtained from applicant and recipient households;

(iv) All activities necessary to maintain the security of automated systems to operate the Food Stamp Program;

(v) Implement regulatory and other changes including a testing phase to meet implementation deadlines, generally within 90 days;

(vi) Generate whatever data is necessary to provide management information for the State agency's own use, such as caseload, participation and actions data;

(vii) Provide support as necessary for the State agency's management of Federal funds relative to Food Stamp Program administration, generate information necessary to meet Federal financial reporting requirements;

(viii) Routine purging of case files and file maintenance, and

(ix) Provide for the eventual direct transmission of data necessary to meet Federal financial reporting requirements.

PART 277—PAYMENTS OF CERTAIN ADMINISTRATIVE COSTS OF STATE AGENCIES

5. In § 277.18:

(a) paragraph (a)(2) is revised;

(b) paragraph (c) is removed; and

(c) paragraphs (d), (e), (f), (g), and (h) are redesignated as paragraphs (c), (d), (e), (f) and (g).

The revision reads as follows:

§ 277.18 Establishment of an Automatic Data Processing (ADP) and Information Retrieval System.

(a) *General.* * * *

(2) Meet the program standards specified in § 272.10 (b)(1), (b)(2), and (b)(3), except for the requirements in § 272.10 (b)(2)(vi), (b)(2)(vii), and (b)(3)(ix) to eventually transmit data directly to FNS.

* * * * *

Date: September 10, 1987.

Anna Kondratas,

Administrator.

[FR Doc. 87–21614 Filed 9–17–87; 8:45 am]

BILLING CODE 3410–30–M

Agricultural Stabilization and Conservation Service

7 CFR Parts 725 and 726

Tobacco Acreage Allotment and Marketing Quota Regulations

AGENCY: Agricultural Stabilization and Conservation Service (ASCS), USDA.

ACTION: Final rule.

SUMMARY: This rule adopts as a final rule, with minor corrections, the proposed rule published in the **Federal Register** on May 20, 1987 (52 FR 18918). This rule redefines the term "leaf account" and provides that a tobacco dealer, warehouseman, or other person who acquires tobacco from a processor or manufacturer and wishes purchase credit for such tobacco for a leaf account must obtain from the processor or manufacturer a certification stating that the tobacco is in the form normally marketed by producers. This rule provides that no purchase credit will be allowed for tobacco acquired by any person from a processor or manufacturer

which is (1) in the form not normally marketed by producers or (2) blended with tobacco in the form normally marketed by producers and such action causes the warehousemen or dealers resales to exceed purchases. A marketing penalty will be due on the excess resales resulting from this action. This rule also provides that processors and manufacturers shall report to the Director of Tobacco and Peanuts Division, ASCS, all of their sales of tobacco to dealers and warehousemen that is in the form not normally marketed by producers.

EFFECTIVE DATE: September 18, 1987.

FOR FURTHER INFORMATION CONTACT: Donald M. Blythe, Agricultural Program Specialist, Tobacco and Peanuts Division, USDA–ASCS, P.O. Box 2415, Washington, DC 20013 (202) 447–4318.

SUPPLEMENTARY INFORMATION: This rule has been reviewed under USDA procedures established in accordance with Executive Order 12291 and Department Regulation No. 1512–1 and has been classified as "not major". It has been determined that this rule will not result in: (1) An annual effect on the economy of $100 million or more; (2) a major increase in costs or prices for consumers, individual industries, Federal, State or local governments, or geographic regions; or (3) significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of United States-based enterprises, to compete with foreign-based enterprises in domestic or export markets.

The title and number of the Federal Assistance Program to which this rule applies are: Commodity Loan and Purchases; 10.051, as found in the catalog of Federal Domestic Assistance.

It has been determined that the Regulatory Flexibility Act is not applicable to this rule since the Agricultural Stabilization and Conservation Service (ASCS) is not required by 5 U.S.C. 553 or any other provision of law to publish a notice of proposed rulemaking with respect to the subject matter of this rule.

This program/activity is not subject to the provisions of Executive Order 12372 which requires intergovernmental consultation with State and local officials. See the notice related to 7 CFR Part 3015, Subpart V, published at 48 FR 29115 (June 29, 1983).

A proposed rule was published in the **Federal Register** on May 20, 1987 (52 FR 18918), which defines "pickings" as the residue of tobacco which accumulates in the course of processing tobacco prior to being redried, consisting of scrap, stem, portions of leaves and leaves of poor quality. The proposed rule provided that such tobacco would be considered to be tobacco in the form not normally marketed by producers and no purchase credit will be allowed for such tobacco when acquired by any person from a processor or manufacturer. Furthermore, no dealer, warehouseman, or other person would be allowed to receive a purchase credit for any purchase from a processor or manufacturer unless the processor or manufacturer certifies that the tobacco involved in the purchase is tobacco in the form normally marketed by producers. The proposed rule also provided that the certification by the processor or manufacturer would be a certification to ASCS that the acquired tobacco is in the form normally marketed by producers.

The public was given 30 days to submit written comments on the proposed rule published. The Department received three comments from the public in response to the proposed rule.

Comments were received from one tobacco loan association, one State ASC committee and a law firm on behalf of a tobacco dealer. The tobacco loan association and the State ASC committee recommended implementation of the proposed rule because it would result in a substantial benefit to the integrity of the tobacco program.

The comment received on behalf of the tobacco dealer stated that the dealer owns a substantially quantity of tobacco not in the form normally marketed by producers which was purchased with the intention of blending the tobacco with tobacco in the form normally marketed by producers. The comment stated that to not allow the dealer a purchase credit for the blending of such tobacco would result in an excessive economic hardship to the dealer.

After considering the comments received, and in order to prevent the illegal marketing of unidentified tobacco, it has been determined that the provisions of the proposed rule should be adopted as a final rule. However, to avoid causing an economic hardship on warehouseman and dealers, the final rule will permit a warehousemen or dealer to receive a purchase credit for tobacco classified as "not in the form normally marketed by producers" when it is blended with tobacco in the form normally marketed by producers, provided that such tobacco was purchased from a processor or manufacturer prior to date of publication of this final rule in the **Federal Register**.

Accordingly, the proposed rule which was published in the **Federal Register** on May 20, 1987 (52 FR 18918) is adopted, with the above modification and minor corrections, as a final rule.

List of Subjects in 7 CFR Parts 725 and 726

Acreage allotment, Marketing quota, Reporting and recordkeeping requirements.

Final Rule

For the reasons set forth in the preamble, Chapter VII, Title 7 of the CFR is amended as follows:

PART 725—[AMENDED]

1. In Part 725:

a. The authority citation continues to read as follows:

Authority: Sec. 301, 313, 314, 314A, 316, 316A, 317, 363, 372–375, 377, 378, 52 Stat. 38, as amended, 47, as amended, 48 as amended, 96 Stat. 215, 75 Stat. 469, as amended, 96 Stat. 205, 79 Stat. 66, as amended, 52 Stat. 63, as amended, 65–66, as amended, 70 Stat. 206, as amended, 72 Stat. 995, as amended, 7 U.S.C. 1301, 1313, 1314, 1314–1, 1314b, 1314b–1, 1314c, 1363, 1372–75, 1377, 1378; sec. 401, 63 Stat. 1054, as amended, 7 U.S.C. 1421, unless otherwise noted.

b. Section 725.51 is amended by revising paragraph (s) and adding paragraph (oo–1) to read:

§ 725.51 Definitions.

* * * * *

(s) *Leaf account tobacco.* The quantity of tobacco purchased or otherwise acquired by or for the account of a warehouseman, including floor sweepings purchased from another warehouseman or dealer, as adjusted by the debits and credits to the buyer's correction account. Such quantity shall not include tobacco in the form not normally marketed by producers, including tobacco pickings, purchased after September 18, 1987, and floor sweepings which accumulate on the warehouse floor.

* * * * *

(oo–1) *Tobacco pickings.* The residue which accumulates in the course of processing tobacco prior to the redrying of such tobacco, consisting of scrap, stems, portions of leaves, and leaves of poor quality shall be considered to be tobacco in the form not normally marketed by producers.

* * * * *

c. Section 725.94 is amended by revising paragraph (c) and adding paragraph (i) to read as follows:

§ 725.94 Penalties considered to be due from warehousemen, dealers, buyers and others excluding producer

* * * * *

(c) *Leaf account tobacco.* If warehouse resales exceed prior leaf account purchases, such marketing's shall be considered to be a marketing of excess tobacco unless such warehouseman furnishes evidence acceptable to the State committee showing that such marketing is not a marketing of excess tobacco. However, evidence acceptable to the State committee shall not be based on the warehouseman's proof of purchase of tobacco that is not in the form normally marketed by producers, unless such tobacco was purchased prior to September 18, 1987, even though such evidence indicates that resales exceed prior leaf account purchases as a result of the blending of tobacco, which was not in the form normally marketed by producers, with the warehouseman's prior purchases of leaf account tobacco.

* * * * *

(i) *Blending tobacco not in the form normally marketed by producers.* Tobacco purchased from processors or manufacturers after September 18, 1987, that is considered not in the form normally marketed by producers that is blended with tobacco in the form normally marketed by producers shall not be credited as a purchase to the dealer's or warehouseman's account by the State committee when reconciling the warehouseman's leaf account or the dealer's purchases and resales. Tobacco not in the form normally marketed by producers that is blended with other tobacco shall be deemed to be excess tobacco and a penalty shall be due on the pounds of tobacco by which a warehouseman's or dealer's resales exceed prior purchases.

§ 725.100 [Amended]

d. Section 725.100 is amended by removing paragraph (g).

e. Section 725.101 is amended by revising paragraphs (b) and (c) to read:

§ 725.101 Dealer purchases of damaged tobacco or tobacco from processors or manufacturers.

* * * * *

(b) *Purchase from processor or manufacturer.* (1) Any tobacco purchased by a dealer, warehouseman, or other person from a processor or manufacturer shall be considered to be tobacco in the form not normally marketed by producers unless the purchaser obtains from the processor or manufacturer a certification stating that such purchased tobacco is in the form normally marketed by producers. The certification by the processor or manufacturer shall be on a form prescribed by the Deputy Administrator certifying to ASCS that the tobacco involved in the transfer of ownership is in the form normally marketed by producers. No purchase credit shall be given to a dealer, warehouseman, or other person on MQ–79, Dealer's Record, for any purchase after September 18, 1987, of tobacco which is in the form not normally marketed by producers. Tobacco which meets the definition of pickings as defined in this part shall be considered tobacco in the form not normally marketed by producers.

(2) Any dealer, warehouseman or other person who plans to purchase tobacco in the form normally marketed by producers from a processor or manufacturer shall, prior to purchase, report such plans to the State ASCS office issuing form MQ–79, Dealer Record Book, to such person. Such report shall be made timely so that a representative of ASCS may inspect the tobacco to determine its marketable value and whether the tobacco is in the form normally marketed by producers. Any tobacco purchased from processors or manufacturers before—

(i) Such plans are reported to the State ASCS office, and

(ii) The tobacco is inspected by an ASCS representative or an inspection is declined by an ASCS representative shall be deemed to be excess tobacco and a penalty at the rate provided in § 725.92 shall be due.

(c) *Report by processor and manufacturer.* For the 1987–88 and subsequent marketing years, each processor or manufacturer shall make a report to the Director that shows the quantity of tobacco sold in the form not normally marketed by producers to dealers and buyers other than processors or manufacturers. The report shall be filed no later than the end of the calendar week following the week in which such tobacco was sold and shall show the name of the purchaser, the date of the sale and the pounds sold.

* * * * *

PART 726—[AMENDED]

2. In Part 726:

a. The authority citation continues to read as follows:

Authority: Secs. 301, 313, 314, 314A, 316B, 317, 363, 372–375, 377, 378, 52 Stat. 38, as amended, 47, as amended, 48, as amended, 96 Stat. 215, 210, 79 Stat. 66, as amended, 52 Stat. 63, as amended, 65–66, as amended, 70 Stat. 206, as amended, 72 Stat. 995, as amended, 7 U.S.C. 1301, 1313, 1314, 1314–1, 1314b–2, 1314c, 1363, 1372–75, 1377, 1378; sec. 401, 63 Stat. 1054, as amended, 7 U.S.C. 1421, unless otherwise noted.

b. Section 726.51 is amended by revising paragraph (r) and adding paragraph (nn–1) to read:

§ 726.51 Definitions.

* * * * *

(r) *Leaf account tobacco.* The quantity of tobacco purchased or otherwise acquired by or for the account of a warehouseman, including floor sweepings purchased from another warehouseman or dealer, as adjusted by the debits and credits to the buyer's correction account. Such quantity shall not include tobacco in the form not normally marketed by producers, including tobacco pickings, purchased after September 18, 1987, and floor sweepings which accumulate on the warehouse floor.

* * * * *

(nn–1) *Tobacco pickings.* The residue which accumulates in the course of processing tobacco prior to the redrying of such tobacco, consisting of scrap, stems, portions of leaves, and leaves of poor quality. Such tobacco shall be considered to be tobacco in the form not normally marketed by producers.

c. Section 726.88 is amended by revising paragraph (c) and adding paragraph (i) to read as follows:

§ 726.88 Penalties considered to be due from warehousemen, dealers, buyers and others excluding producer.

* * * * *

(c) *Leaf account tobacco.* If warehouse resales exceed prior leaf account purchases, such marketing's shall be considered to be a marketing of excess tobacco unless such warehouseman furnishes evidence acceptable to the State committee showing that such marketing is not a marketing of excess tobacco. However, evidence acceptable to the State committee shall not be based on the warehouseman's proof of purchase of tobacco that is not in the form normally marketed by producers, unless, such tobacco was purchased prior to September 18, 1987, even though such evidence indicates that resales exceed prior leaf account purchases as a result of the blending of tobacco, which was not in the form normally marketed by producers, with the warehouseman's prior purchases of leaf account tobacco.

* * * * *

(i) *Blending tobacco not in the form normally marketed by producers.* Tobacco purchased from processors or manufacturers after September 18, 1987, that is considered not in the form normally marketed by producers, which is blended with tobacco in the form normally marketed by producers, shall

not be credited as a purchase to the dealer's or warehouseman's account by the State committee when reconciling the warehouseman's leaf account or the dealer's purchases and resales. Tobacco not in the form normally marketed by producers that is blended with other tobacco shall be deemed to be excess tobacco and a penalty shall be due on the pounds of tobacco that a warehouseman's or dealer's resales exceeds prior purchases.

d. Section 726.94 is amended by revising paragraph (e) (2), (3), and (4) and removing paragraph (h), to read:

§ 726.94 Dealer's records and reports.

* * * * *

(e) * * *

(2) *Purchase from processor or manufacturer.* Any tobacco purchased by a dealer, warehouseman, or other person from a processor or manufacturer shall be considered to be tobacco in the form not normally marketed by producers unless the purchaser obtains from the processor or manufacturer a certification stating that such purchased tobacco is in the form normally marketed by producers. The certification by the processor or manufacturer shall be on a form prescribed by the Deputy Administrator certifying to ASCS that the tobacco involved in the transfer of ownership is in the form normally marketed by producers. No purchase credit shall be given to a dealer, warehouseman, or other person on MQ-79, Dealer's Record, for any purchase after September 18, 1987, of tobacco which is in the form not normally marketed by producers. Tobacco which meets the definition of pickings as defined in this part shall be considered tobacco in the form not normally marketed by producers.

(3) *Certification.* Any dealer, warehouseman or other person who plans to purchase tobacco in the form normally marketed by producers from a processor or manufacturer shall, prior to purchase, report such plans to the State ASCS office issuing form MQ-79, Dealer Record Book, to such person. Such report shall be made timely so that a representative of ASCS may inspect the tobacco to determine its marketable value and whether the tobacco is in the form normally marketed by producers. Any tobacco purchased from processors or manufacturers before such plans are reported to the State ASCS office and before the tobacco is inspected by an ASCS representative or an inspection is declined by an ASCS representative shall be deemed to be excess tobacco and the penalty at the full rate shall be due.

(4) *Report by processor or manufacturer.* For the 1987-88 and subsequent marketing years, each processor or manufacturer shall make a report to the Director, showing the quantity of tobacco sold in the form not normally marketed by producers to dealers and buyers other than processors or manufacturers. The report shall be filed no later than the end of the calendar week following the week in which such tobacco was sold and shall show the name of the purchaser, the date of the sale and the pounds sold.

* * * * *

(h) [Remove]

Signed in Washington, DC, on September 10, 1987.

Vern Neppl,

Acting Administrator, Agricultural Stabilization and Conservation Service.

[FR Doc. 87-21636 Filed 9-17-87; 8:45 am]

BILLING CODE 3410-05-M

Animal and Plant Health Inspection Service

9 CFR Part 92

[Docket No. 87-122]

Suspension of Regulations on Exclusive Use of the Harry S Truman Animal Import Center

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Interim rule.

SUMMARY: We are suspending the current regulations on applying for special authorization for the exclusive use of the Harry S Truman Animal Import Center (HSTAIC) pending the completion of further rulemaking proceedings. These regulations provide for the acceptance of applications for the exclusive use of HSTAIC beginning October 1 of each year. We had hoped to complete rulemaking proceedings changing the requirements for the use of HSTAIC before October 1st of this year. Because we are in the process of proposing a revision of the regulations on importing animals through HSTAIC, because of the problems encountered under the current regulations in 1986 regarding its exclusive use, and because of the needless expense prospective importers would have to incur under the present regulations if the regulations are changed, we believe this action is warranted. We will publish our proposal in a forthcoming issue of the **Federal Register**.

DATES: Interim rule effective September 15, 1987. Consideration will be given only to comments postmarked or received on or before November 17, 1987.

ADDRESSES: Send an original and two copies of written comments to Steven B. Farbman, Assistant Director, Regulatory Coordination, APHIS, USDA, Room 728, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782. Specifically refer to Docket No. 87-122. You may review these comments at Room 728 of the Federal Building between 8 a.m. and 4:30 p.m., Monday through Friday, except holidays.

FOR FURTHER INFORMATION CONTACT: Harvey A. Kryder, Senior Staff Veterinarian, Import-Export and Emergency Planning Staff, Veterinary Services, APHIS, USDA, Room 810, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782, 301-436-8695.

SUPPLEMENTARY INFORMATION:

Background

Pending completion of rulemaking that will propose to revise completely the regulations on importing animals through the Harry S Truman Animal Import Center (HSTAIC) in 9 CFR Part 92, we are suspending § 92.41(b), "Procedures for special authorization for exclusive use of the HSTAIC." Because we will not have completed the rulemaking proceeding concerning the proposed changes in the regulations before October 1 of this year, we will accept no applications for exclusive use of HSTAIC until the rulemaking proceeding is completed.

The system in the current regulations for exclusive use of HSTAIC has created substantial controversy and practical problems in its administration; and we believe the current system should be changed to be effective and avoid charges of inequitable treatment. However, the procedures in the current regulations would automatically take effect on October 1, 1987—the beginning of fiscal year 1988—if we failed to take this emergency action. Our forthcoming proposals for change in the regulations will include, among other things, procedures for administering the annual lottery, deposit requirements, and clarification of the HSTAIC-importer's responsibilities. In proposing a new system for granting importers use of HSTAIC, we intend to ensure that all prospective applicants for space compete equally.

Executive Order 12291 and Regulatory Flexibility Act

We are issuing this rule in conformance with Executive Order 12291, and we have determined it is not a "Major rule." Based on information compiled by the Department, we have determined that this rule will have an

effect on the economy of less than $100 million; will not cause a major increase in costs or prices for consumers, individual industries, federal, state, or local government agencies, or geographic regions; and will not cause a significant adverse effect on competition, employment, investment, productivity, innovation, or the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

For this action, the Office of Management and Budget has waived its review process required by Executive Order 12291.

Under these circumstances, the Administrator of the Animal and Plant Health Inspection Service has determined that this action will not have a significant economic impact on a substantial number of small entities.

Paperwork Reduction Act

This interim rule contains no information collection or recordkeeping requirements under the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*).

Executive Order 12372

This program/activity is listed in the Catalog of Federal Domestic Assistance under No. 10.025 and is subject to the provisions of Executive Order 12372, which requires intergovernmental consultation with state and local officials. (See 7 CFR Part 3015, Subpart V.)

Emergency Action

Dr. John K. Atwell, Deputy Administrator of the Animal and Plant Health Inspection Service for Veterinary Services, has determined that an emergency situation exists, which warrants publication of this interim rule without prior opportunity for public comment. Immediate action is necessary if we are to advise importers that, having suspended the regulations in § 92.41(b), we will accept no applications for exclusive use of HSTAIC until further notice; contrary to past practice, therefore, we will accept no applications filed on October 1, 1987, the first date of the new fiscal year.

Since prior notice and other public procedures with respect to this interim rule are impracticable and contrary to the public interest under these emergency conditions, there is good cause under 5 U.S.C. 553(d)(3) for making this interim rule effective less than 30 days after publication of this document in the **Federal Register**. We will consider comments postmarked or received within 60 days of publication of this interim rule in the **Federal Register**. Any amendments we make to this interim rule as a result of these comments will be published in the **Federal Register** as soon as possible following the close of the comment period.

List of Subjects in 9 CFR Part 92

Animal diseases Canada, Imports, Livestock and livestock products, Mexico, Poultry and poultry products, Quarantine, Transportation, Wildlife.

Accordingly, 9 CFR Part 92 is amended as follows:

PART 92—IMPORTATION OF CERTAIN ANIMALS AND POULTRY AND CERTAIN ANIMAL; AND POULTRY PRODUCTS: INSPECTION AND OTHER REQUIREMENTS FOR CERTAIN MEANS OF CONVEYANCE AND SHIPPING CONTAINERS THEREON

1. The authority citation for Part 92 continues to read as follows:

Authority: 7 U.S.C. 1622; 19 U.S.C. 1306; 21 U.S.C. 102–105, 111, 134a, 134b, 134c, 134d, 134f, and 135; 7 CFR 2.17, 2.51, and 371.2(d)

§ 92.41 [Removed and Reserved]

2. Section 92.41(b) is removed and reserved.

Done in Washington, DC, this 15th day of September, 1987.

J.K. Atwell,

Deputy Administrator, Veterinary Services, Animal and Plant Health Inspection Service.

[FR Doc. 87–21634 Filed 9–17–87; 8:45 am]

BILLING CODE 3410-34-M

NATIONAL CREDIT UNION ADMINISTRATION

12 CFR Part 790

Interpretive Ruling and Policy Statement No. 87–2; Developing and Reviewing Government Regulations

AGENCY: National Credit Union Administration (NCUA).

ACTION: Interpretive Ruling and Policy Statement Number 87–2.

SUMMARY: This policy statement sets forth NCUA's procedures for developing and reviewing regulations. These procedures are intended to ensure compliance with the Regulatory Flexibility Act of 1980 and the Paperwork Reduction Act of 1980. This policy statement supersedes Interpretive Ruling and Policy Statement (IRPS) Number 81–4.

EFFECTIVE DATE: September 18, 1987.

ADDRESS: National Credit Union Administration, 1776 G Street, NW., Washington, DC 20456.

FOR FURTHER INFORMATION CONTACT: Julie Tamuleviz, Staff Attorney, Office of General Counsel, NCUA, at the above address, or telephone (202) 357–1030.

SUPPLEMENTARY INFORMATION: This policy statement sets forth NCUA's procedures for developing and reviewing regulations. NCUA previously published its procedures for developing and reviewing regulations in Appendix A to Part 790 of the NCUA Rules and Regulations. Appendix A was written in response to Executive Order 12044, which directed each executive agency to adopt procedures to improve existing and future regulations. Executive Order 12044 was revoked in 1981 by Executive Order 12291. In response to this revocation, as well as the passage of the Financial Simplification Act of 1980, the Regulatory Flexibililty Act of 1980, 5 U.S.C. 601 *et seq.*, and the Paperwork Reduction Act of 1980, 44 U.S.C. 3501 *et seq.*, NCUA set forth an amended explanation of its procedures for developing regulations in IRPS 81–4. Due to changes in the law following the publication of IRPS 81–4, including the repeal of the Financial Simplification Act of 1980, it is necessary at this time to revoke IRPS 81–4 and to set forth current procedures for developing and reviewing regulations in a new policy statement. Appendix A to Part 790 will be removed from the Code of Federal Regulations.

Interpretive Ruling and Policy Statement Number 87–2; Developing and Reviewing Government Regulations

I. Statement of Policy and Coverage

It is the policy of NCUA to ensure that its regulations:

—Impose only minimum required burdens on credit unions, consumers, and the public;

—Are appropriate for the size of the financial institutions regulated by NCUA;

—Are issued only after full public participation in the rulemaking process; and

—Are clear and understandable.

II. Procedures for the Development of Regulations

1. Proposed Regulations

The Office of General Counsel (OGC) will oversee the development of regulations. Input on regulations will be obtained from other NCUA offices when appropriate. OGC will prepare a draft of the proposed regulation for submission to the NCUA Board for approval. The proposed regulation will then be published in the **Federal Register** and other appropriate publications.

2. Initial Regulatory Flexibility Analysis

When NCUA is required by 5 U.S.C. 553, or any other law, to publish a general notice of proposed rulemaking for any proposed regulation, NCUA will prepare and make available for public comment an initial regulatory flexibility analysis for any regulation that will have a significant economic impact on a substantial number of small entities. Credit unions having less than $1 million in assets will be considered to be small entities. Such analysis will describe the impact of the regulation upon small entities, and will be published in the **Federal Register** at the time of general notice of proposed rulemaking for the regulation. A copy of the analysis will be forwarded to the Chief Counsel for Advocacy of the Small Business Administration (SBA). The content of the initial regulatory flexibility analysis will be in accordance with the provisions of 5 U.S.C. 603.

3. Compliance With the Paperwork Reduction Act

If a proposed regulation contains an information collection request such as a recordkeeping or reporting requirement that, if adopted, will be imposed upon ten or more persons (including credit unions), the proposed regulation will be sent to the Office of Management and Budget (OMB) prior to publication in the **Federal Register.** OMB will then have 60 days after publication to comment on the information collection request. If OMB thereafter disapproves of the information collection request, the NCUA can override this by a majority vote and certify such override to OMB in the manner described in 44 U.S.C. 3507(c).

4. Final Regulatory Flexibility Analysis

A final regulatory flexibility analysis will be prepared for all regulations that required the publication of a general notice of proposed rulemaking and that will have a significant economic impact on a substantial number of small entities. The content of the final regulatory flexibility analysis will be in conformance with 5 U.S.C. 604.

Initial and final regulatory flexibility analysis need not be prepared if the Board certifies that a regulation will not have a significant economic effect on a substantial number of small entities. The certification will be published in the **Federal Register** with a statement explaining the certification. A copy of the certification and statement will be provided to the Chief Counsel for Advocacy of the SBA.

5. Final Rule

OGC will prepare a draft final regulation to be presented to the NCUA Board for approval. Following Board approval, the final regulation will be published in the **Federal Register** and other appropriate publications.

III. Opportunity for Public Participation

A member of the public may recommend that NCUA develop a regulation or revise an existing regulation. A number of methods will be used by NCUA to encourage public participation in the development and review of regulations, including: notifying the public of the status of regulations being reviewed and developed through publication of the semiannual agenda; publication of advance notices of proposed rulemaking with requests for public comment; the use of questionnaires to solicit information; publication of articles; and by making copies of proposed regulations available to the public.

When any regulation is promulgated which will have a significant economic impact on a substantial number of small entities, the NCUA will assure that small entities have been given an opportunity to participate in the rulemaking process through the types of methods listed in 5 U.S.C. 609.

NCUA will continue to solicit public comment on proposed regulations as required by 5 U.S.C. 553. As a matter of policy, NCUA believes that the public should be given at least 60 days to comment on a proposed regulation. If the comment period is less than 60 days, or is extended beyond 60 days, NCUA will publish a statement in the **Federal Register** explaining the change.

IV. Review of Existing Regulations

NCUA shall periodically update, clarify and simplify existing regulations and eliminate redundant and unnecessary provisions. 5 U.S.C. 610 requires that regulations having a significant economic impact on a substantial number of small entities will be reviewed every ten years. As a matter of policy, NCUA will continue with its efforts to review *all* its existing regulations every three years.

V. Semiannual Agenda

Twice each year, NCUA will adopt an agenda of proposed regulations that the Agency has issued or expects to issue and currently effective regulations that are under NCUA review. Incorporated into the agenda, when necessary, will be the regulatory flexibility agenda required by 5 U.S.C. 602. Each semiannual agenda will be voluntarily submitted to the Office of Management and Budget for inclusion in the "Unified Agenda of Federal Regulations" published in the **Federal Register** in April and October of each year.

The semiannual agenda will contain the following: a brief description of the subject area being considered and a summary of the nature of any regulation which NCUA expects to propose or promulgate; the objectives and legal basis for the issuance of the regulation; an approximate schedule for completing action on any regulation for which NCUA has issued a general notice of proposed rulemaking; and the name and number of an NCUA official knowledgeable with respect to each agenda item. The agenda will identify any regulation that the NCUA expects to have a significant economic impact on a substantial number of small entities. When there are proposed regulations listed in the agenda that will have such an impact on small entities, NCUA will endeavor to provide notice of the agenda to small entities in the manner set forth in 5 U.S.C. 602(c). Where the regulatory flexibility agenda is incorporated into the semiannual agenda, the latter will be transmitted to the Chief Counsel for Advocacy of the SBA for comment.

By the National Credit Union Administration Board on this 9th day of September, 1987.

Becky Baker,

Secretary of the Board.

[FR Doc. 87-21522 Filed 9-17-87; 8:45 am]

BILLING CODE 7535-01-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 87-NM-54-AD; Amdt. 39-5727]

Airworthiness Directives; Aerospatiale SN601 (Corvette) Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to Aerospatiale SN601 (Corvette) series airplanes, which requires installation of modified low-pressure fuel filters. This amendment is prompted by a report of in-flight fuel filter icing. This condition, if not corrected, could result in fuel starvation

to the engines and subsequent loss of power.

EFFECTIVE DATE: October 19, 1987.

ADDRESSES: This applicable service information may be obtained from Aerospatiale, 316 Route de Bayonne, 31060 Toulouse Cedex 03, France. This information may be examined at the FAA, Northwest Mountain Region, 17900 Pacific Highway South, Seattle, Washington, or the Seattle Aircraft Certification Office, 9010 East Marginal Way South, Seattle, Washington.

FOR FURTHER INFORMATION CONTACT: Ms. Judy Golder, Standardization Branch, ANM-113; telephone (206) 431-1967. Mailing address: FAA, Northwest Mountain Region, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168.

SUPPLEMENTARY INFORMATION: A proposal to amend Part 39 of the Federal Aviation Regulations to include an airworthiness directive, which requires replacement of the low pressure fuel filters with modified filters on Aerospatiale SN601 (Corvette) series airplanes, was published in the **Federal Register** on June 3, 1987 (52 FR 20721).

Interested parties have been afforded an opportunity to participate in the making of this amendment. No comments were received in response to the NPRM.

After careful review of the available data, the FAA has determined that air safety and the public interest require the adoption of the rule as proposed.

It is estimated that 2 airplanes of U.S. registry will be affected by this AD, that it will take approximately 3 manhours per airplane to accomplish the required actions, and that the average labor cost will be $40 per manhour. Basd on these figures, the total cost impact of this AD to U.S. operators is estimated to be $240.

For the reasons discussed above, the FAA has determined that this regulation is not considered to be major under Executive Order 12291 or significant under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979 and it is further certified under the criteria of the Regulatory Flexibility Act that this rule will not have a significant economic effect on a substantial number of small entities because of the minimal cost of compliance per airplane ($120). A final evaluation has been prepared for this regulation and has been placed in the docket.

List of Subjects in 14 CFR Part 39

Aviation safety, Aircraft.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends § 39.13 of Part 39 of the Federal Aviation Regulations as follows:

PART 39—[AMENDED]

1. The authority citation for Part 39 continues to read as follows:

Authority: 49 U.S.C. 1354(a), 1421 and 1423; 49 U.S.C. 106(g) (Revised Pub. L. 97-449, January 12, 1983); and 14 CFR 11.89.

§ 39.13 [Amended]

2. By adding the following new airworthiness directive:

Aerospatiale: Applies to Model SN601 Corvette airplanes, certificated in any category, except those airplanes on which Modification No. 1390 (Service Bulletin 73-1, replacement of fuel anti-ice additive system by a fuel heating system), has been accomplished. Compliance is required as indicated, unless previously accomplished.

To prevent loss of power due to ice clogging of low pressure fuel filters, accomplish the following:

A. Within six months after the effective date of this AD, replace the low pressure fuel filters (P/N 433-E25-2) with modified filters (P/N 433-E25-21), in accordance with Aerospatiale Service Bulletin No. 28-10, dated April 25, 1986.

B. An alternate means of compliance or adjustment of the compliance time, which provides an acceptable level of safety, may be used when approved by the Manager, Standardization Branch, ANM-113, FAA, Northwest Mountain Region.

C. Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate airplanes to a base for the accomplishment of the modifications required by this AD.

All persons affected by this directive who have not already received the appropriate service document from the manufacturer may obtain copies upon request to Aerospatiale, 316 Route de Bayonne, 31060 Toulouse Cedex 03, France. This document may be examined at the FAA, Northwest Mountain Region, 17900 Pacific Highway South, Seattle, Washington, or the Seattle Aircraft Certification Office, 9010 East Marginal Way South, Seattle, Washington.

This amendment becomes effective October 19, 1987.

Issued in Seattle, Washington, on September 4, 1987.

Wayne J. Barlow,

Director, Northwest Mountain Region.

[FR Doc. 87-21640 Filed 9-17-87; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 39

[Docket No. 86-NM-171-AD; Amdt. 39-5724]

Airworthiness Directives; CASA Model C-212 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to CASA Model C-212 series airplanes, which requires replacement of certain elevator, rudder, and aileron trim control system rods, levers, links, and tabs. The FAA has determined that, in the event of certain single failures in these trim control systems, the potential exists for damage to the airframe due to flutter. The replacement components will add fail-safe features to the trim control systems.

EFFECTIVE DATE: October 19, 1987.

ADDRESSES: The applicable service information may be obtained from Construcciones Aeronauticas S.A., Getafe, Madrid, Spain. This information may be examined at the FAA, Northwest Mountain Region, 17900 Pacific Highway South, Seattle, Washington, or the Seattle Aircraft Certification Office, 9010 East Marginal Way South, Seattle, Washington.

FOR FURTHER INFORMATION CONTACT: Ms. Judy M. Golder, Standardization Branch, ANM-113; telephone (206) 431-1967. Mailing address: FAA, Northwest Mountain Region, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168.

SUPPLEMENTARY INFORMATION: A proposal to amend Part 39 of the Federal Aviation Regulations to include an airworthiness directive, which requires installation of the replacement elevator, rudder, and aileron trim control system components on CASA Model C-212 series airplanes, was published in the **Federal Register** on May 13, 1987 (52 FR 17958).

Interested parties have been afforded an opportunity to participate in the making of this amendment. Due consideration has been given to the single comment received.

The commenter suggested that there was no need for the installation of the trim control system components because there has been neither a failure of a control surface tab or related mechanism, nor any defects reported during inspections. The FAA does not concur that the installation is not needed. Service history in general has shown that a tab control system single

failure is one of the most frequent causes of airframe damage due to flutter, and it was this experience that led to the requirement to account for single failures. Although there have been no reported failures or defects, this, in itself, is not considered a sufficient basis for concluding that an AD should not be issued, since service history only covers the experience to date, and a good portion of the airplane's service life remains.

The commenter also stated that the modification appeared still to be a single load path, and to spend a large amount of money installing the parts required by this AD, only to encounter some future AD requiring a change to the system, was not justified. The FAA does not agree. The design, which was developed by the manufacturer, utilizes such concepts as bolt/bushing combinations, back-to-back fittings, tubes within tubes, etc. Any single failure would, therefore, not result in a flutter condition.

The commenter proposed an inspection program in lieu of the installation of components. The FAA does not concur in total with this comment. The FAA has identified an unsafe feature in the design of the Model C-212, and has determined that installation of the modification required by this AD is necessary to address the unsafe design feature. We are not aware that an inspection program alone could provide an adequate level of safety. However, paragraph B. of the final rule provides to operators the option of applying for an alternate means of compliance.

After careful review of the available data, including the comments noted above, the FAA has determined that air safety and the public interest require the adoption of the rule as proposed.

It is estimated that 41 airplanes of U.S. registry will be affected by this AD, that it will take approximately 180 manhours per airplane to accomplish the required actions, and that the average labor cost will be $40 per manhour. Modification parts are estimated at $28,254 per airplane. Based on these figures, the total cost impact of this AD to U.S. operators is estimated to be $1,453,614.

For the reasons discussed above, the FAA has determined that this regulation is not considered to be major under Executive Order 12291 or significant under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979) and it is further certified under the criteria of the Regulatory Flexibility Act that this rule will not have a significant economic effect on a substantial number of small entities because a substantial number of small entities are not affected. A final evaluation has been prepared for this regulation and has been placed in the docket.

List of Subjects in 14 CFR Part 39

Aviation safety, Aircraft.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends § 39.13 of Part 39 of the Federal Aviation Regulations as follows:

PART 39—[AMENDED]

1. The authority citation for Part 39 continues to read as follows:

Authority: 49 U.S.C. 1354(a), 1421 and 1423; 49 U.S.C. 106(g) (Revised Pub. L. 97-449, January 2, 1983); and 14 CFR 11.89.

§ 39.13 [Amended]

2. By adding the following new airworthiness directive:

CASA: Applies to CASA Model C-212 series airplanes as listed in CASA Service Bulletin 212-27-25, Revision 2, dated October 23, 1985, certificated in any category. Compliance is required within 18 months after the effective date of this AD, unless previously accomplished.

To prevent airframe damage due to flutter caused by certain single failure conditions of the trim control system, accomplish the following:

A. Replace elevator, rudder, and aileron trim control system components in accordance with CASA Service Bulletin 212-27-25, Revision 2, dated October 23, 1985.

B. An alternate means of compliance or adjustment of the compliance time, which provides an acceptable level of safety, may be used when approved by the Manager, Standardization Branch, ANM-113, FAA, Northwest Mountain Region.

C. Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate airplanes to a base for the accomplishment of the modifications required by this AD.

All persons affected by this directive who have no already received the appropriate service document from the manufacturer may obtain copies upon request to Construcciones Aeronauticas S.A., Getafe, Madrid, Spain. This document may be examined at the FAA, Northwest Mountain Region, 17900 Pacific Highway South, Seattle, Washington, or the Seattle Aircraft Certification Office, 9010 East Marginal Way South, Seattle, Washington.

This amendment becomes effective October 19, 1987.

Issued in Seattle, Washington, on August 31, 1987.

Wayne J. Barlow,

Director, Northwest Mountain Region.

[FR Doc. 87-21641 Filed 9-17-87; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Parts 43, 45, and 91

[Docket No. 25033; Amendment Nos. 43-29, 45-17, and 91-206]

Aircraft Identification and Retention of Fuel System Modification Records; Correction

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule; correction.

SUMMARY: FAA is correcting errors in Amendment Number 91-206, Aircraft Identification and Retention of Fuel System Modification Records. In FR Doc. 87-20606, published Wednesday September 9, 1987, on page 34096, please correct the amendment number "91-206" to read "91-202."

FOR FURTHER INFORMATION CONTACT: Joseph J. Gwiazdowski, (202) 267-9541.

Denise Hall,

Manager, Program Management Staff.

[FR Doc. 87-21543 Filed 9-17-87; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 73

[Airspace Docket No. 87-AWP-28]

Alteration of Restricted Area R-2512 Holtsville, CA

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment changes the times of use for Restricted Area R-2512 located near Holtsville, CA, indicating more accurately when the area is being utilized. This action will reduce the time the restricted area is in effect.

EFFECTIVE DATE: 0901 UTC, November 19, 1987.

FOR FURTHER INFORMATION CONTACT: Andrew B. Oltmanns, Airspace Branch (ATO-240), Airspace-Rules and Aeronautical Information Division, Air Traffic Operations Service, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591: Telephone: (202) 267-9254.

The Rule

This amendment to Part 73 of the Federal Aviation Regulations changes the times of use for Restricted Area R-2512 located near Holtville, CA. Because this would amend the time of designation to reflect actual times of use and would reduce the time the restricted area is in effect, I find that notice and

public procedure under 5 U.S.C. 553(b) are unnecessary because this action is a minor technical amendment in which the public would not be particularly interested. Section 73.25 of Part 73 of the Federal Aviation Regulations was republished in Handbook 7400.6C dated January 2, 1987.

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule, when promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 73

Aviation safety, Restricted areas.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, Part 73 of the Federal Aviation Regulations (14 CFR Part 73) is amended, as follows:

PART 73—SPECIAL USE AIRSPACE

1. The authority citation for Part 73 continues to read as follows:

Authority: 49 U.S.C. 1348(a), 1354(a), 1510, 1522; Executive Order 10854; 49 U.S.C. 106(g) (Revised Pub. L. 97-449, January 12, 1983); 14 CFR 11.69.

§ 73.25 [Amended]

2. Section 73.25 is amended as follows:

R-2512 Holtsville, CA [Amended]

By removing the present Time of designation and substituing the following:

Time of designation. 0600-2300 local time daily; other times by NOTAM 24 hours in advance.

Issued in Washington, DC, on September 3, 1987.

Shelomo Wugalter,

Acting Manager, Airspace-Rules and Aeronautical Information Division.

[FR Doc. 87-21642 Filed 9-17-87; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 73

[Airspace Docket No. 87-AWP-22]

Revocation of Restricted Area R-2529 Fort Ord West, CA

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action revokes Restricted Area R-2529 located near Fort Ord West, CA. This action is necessary since the United States Army (USA) no longer uses the airspace for hazardous type activities. This action restores for public use previously restricted airspace.

EFFECTIVE DATE: 0901 UTC, November 19, 1987.

FOR FURTHER INFORMATION CONTACT: Andrew B. Oltmanns, Airspace Branch (ATO-240), Airspace-Rules and Aeronautical Information Division, Air Traffic Operations Service, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591; telephone: (202) 267-9254.

The Rule

This amendment to Part 73 of the Federal Aviation Regulations revokes Restricted Area R-2529 located near Fort Ord West, CA. This action is necessary since the USA is no longer using the airspace for hazardous activities. Because the purpose of the area no longer exists and because the action would simply restore the airspace to public use, I find that notice and public procedure under 5 U.S.C. 553(b) are unnecessary because this action is a minor technical amendment in which the public would not be particularly interested. Section 73.25 of Part 73 of the Federal Aviation Regulations was republished in Handbook 7400.6C dated January 2, 1987.

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule, when promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 73

Aviation safety, restricted areas.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, Part 73 of the Federal Aviation Regulations (14 CFR Part 73) is amended, as follows:

PART 73—SPECIAL USE AIRSPACE

1. The authority citation for Part 73 continues to read as follows:

Authority: 49 U.S.C. 1348(a), 1354(a), 1510, 1522; executive Order 10854; 49 U.S.C. 106(g) (Revised Pub. L. 97-449, January 12, 1983); 14 CFR 11.69.

§ 73.25 [Amended]

2. Section 73.25 is amended as follows:

R-2529 Fort Ord West, CA [Removed]

Issued in Washington, DC on September 3, 1987.

Shelamo Wugalter,

Acting Manager, Airspace-Rules and Aeronautical Information Division.

[FR Doc. 87-21643 Filed 9-17-87; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 75

[Airspace Docket No. 86-AWP-34]

Alteration of Jet Route J-6 California

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment alters the description of Jet Route J-6 located in the vicinity of Palmdale, CA. The current alignment of J-6 is between Big Sur, CA, via a south dogleg to Palmdale, CA. This action realigns J-6 between Salinas, CA, via Avenal, CA, to Palmdale. Aircraft operating along that portion of J-6 are normally vectored north before proceeding over Palmdale. This action realigns J-6 to an area where aircraft are usually vectored, thereby reducing controller workload.

EFFECTIVE DATE: 0901 UTC, November 19, 1987.

FOR FURTHER INFORMATION CONTACT: Lewis W. Still, Airspace Branch (ATO-240), Airspace-Rules and Aeronautical Information Division, Air Traffic Operations Service, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591; telephone: (202) 267-9250.

SUPPLEMENTARY INFORMATION:

History

On March 20, 1987, the FAA proposed to amend Part 75 of the Federal Aviation Regulations (14 CFR Part 75) to alter the description of Jet Route J-6 located in the vicinity of Palmdale, CA (52 FR 5923). Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No comments objecting to the proposal were received. Except for editorial changes, this amendment is the same as that proposed in the notice. Section 75.100 of Part 75 of the Federal Aviation Regulations was republished in Handbook 7400.6C dated January 2, 1987.

The Rule

This amendment to Part 75 of the Federal Aviation Regulations alters the description of Jet Route J-6 located in the vicinity of Palmdale, CA. The current alignment of J-6 is between Big Sur, CA, via a south dogleg to Palmdale, CA. This action realigns J-6 between Salinas, CA, via Avenal, CA, to Palmdale. Aircraft operating along that portion of J-6 are normally vectored before proceeding over Palmdale. This action realigns J-6 to an area where aircraft are usually vectored, thereby reducing controller workload.

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 75

Aviation Safety, Jet Routes.

Adoption of the Amendment

Accordingly, purusant to the authority delegated to me, Part 75 of the Federal Aviation Regulations (14 CFR Part 75) is amended, as follows:

PART 75—ESTABLISHMENT OF JET ROUTES AND AREA HIGH ROUTES

1. The authority citation for Part 75 continues to read as follows:

Authority 49 U.S.C. 1348(a), 1354(a), 1510; Executive Order 10854; 49 U.S.C. 106(g) (Revised Pub. L. 97-449, January 12, 1983); 14 CFR 11.69.

§ 75.100 [Amended]

2. Section 75.100 is amended as follows:

J-6 [Amended]

By removing the words "From Big Sur, CA, via INT Big Sur 137° and Palmdale, CA, 291° radials; Palmdale;" and by substituting the words "From Salinas, CA, via INT Salinas 145° and Avenal, CA, 292° radials; Avenal; INT Avenal 119° and Palmdale, CA, 310° radials; Palmdale;"

Issued in Washington, DC on September 3, 1987.

Shelomo Wugalter,

Acting Manager, Airspace-Rules and Aeronautical Information Division.

[FR Doc. 87-21644 Filed 9-17-87; 8:45 am]

BILLING CODE 4910-13-M

---

14 CFR Part 75

[Airspace Docket No. 87-ACE-3]

Alteration of Jet Routes—Iowa

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment realigns Jet Routes J-10 and J-192 located in the vicinity of Iowa City, IA. These alterations establish routes in areas where aircraft are normally vectored. This action improves traffic flow in that area and reduces controller workload.

EFFECTIVE DATE: 0901 UTC, November 19, 1987.

FOR FURTHER INFORMATION CONTACT: Lewis W. Still, Airspace Branch (ATO-240), Airspace-Rules and Aeronautical Information Division, Air Traffic Operations Service, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591; telephone: (202) 267-9250.

SUPPLEMENTARY INFORMATION:

History

On April 14, 1987, the FAA proposed to amend Part 75 of the Federal Aviation Regulations (14 CFR Part 75) to alter the descriptions of J-10 and J-192 by extending these routes to Iowa City, IA, VORTAC (52 FR 12000). These extensions will accommodate a heavy flow of traffic that is now using direct routes. This action reduces controller workload by establishing routes in areas where aircraft are usually vectored. Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No comments objecting to the proposal were received. Except for editorial changes, this amendment is the same as that proposed in the notice. Section 75.100 of Part 75 of the Federal Aviation Regulations was republished in Handbook 7400.6C dated January 2, 1987.

The Rule

This amendment to Part 75 of the Federal Aviation Regulations realigns Jet Routes J-10 and J-192 located in the vicinity of Iowa City, IA. These alterations establish routes in areas where aircraft are normally vectored. This action improvess traffic flow in that area and reduces controller workload.

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 75

Aviation safety, Jet routes.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, Part 75 of the Federal Aviation Regulations (14 CFR Part 75) is amended, as follows:

PART 75—ESTABLISHMENT OF JET ROUTES AND AREA HIGH ROUTES

1. The authority citation for Part 75 continues to read as follows:

Authority: 49 U.S.C. 1348(a), 1354(a), 1510; Executive Order 10854; 49 U.S.C. 106(g) (Revised Pub. L. 97-449, January 12, 1983); 14 CFR 11.69.

§ 75.100 [Amended]

2. Section 75.100 is amended as follows:

J-10 [Amended]

By removing the words "to Des Moines, IA." and by substituting the words "Des Moines, IA; to Iowa City, IA."

]-192 [Revised]

From Goodland, KS, Pawnee City, NE; to Iowa City, IA.

Issued in Washington, DC, on September 9, 1987.

Shelomo Wugalter,

Acting Manager, Airspace-Rules and Aeronautical Information Division.

[FR Doc. 87-21645 Filed 9-17-87; 8:45 am]

BILLING CODE 4910-13-M

DEPARTMENT OF DEFENSE

Department of the Navy

32 CFR Part 706

Certifications and Exemptions Under the International Regulations for Preventing Collisions at Sea, 1972; Amendment

AGENCY: Department of the Navy, DOD.

ACTION: Final rule.

SUMMARY: The Department of the Navy is amending its certifications and exemptions under the International Regulations for Preventing Collisions at Sea, 1972 (72 COLREGS), to reflect that the Under Secretary of the Navy: (1) Has determined that USS FORT FISHER (LSD-40) is a vessel of the Navy which, due to its special construction and purpose, cannot comply fully with certain provisions of the 72 COLREGS without interfering with its special function as naval dock landing ship, and (2) has directed that certain naval ships and classes of ships be deleted from one of the tables in the existing Part 706. The intended effect of this rule is to warn mariners in waters where 72 COLREGS apply.

EFFECTIVE DATE: August 27, 1987.

FOR FURTHER INFORMATION CONTACT: Captain P.C. Turner, JAGC, U.S. Navy Admiralty Counsel, Office of the Judge Advocate General, Navy Department, 200 Stovall Street, Alexandria, VA 22332-2400, Telephone number: (202) 325-9744.

SUPPLEMENTARY INFORMATION: Pursuant to the authority granted in 33 U.S.C. 1605, the Department of the Navy amends 32 CFR Part 706. This amendment provides notice that the Under Secretary of the Navy, under authority delegated by the Secretary of the Navy, has certified that USS FORT FISHER (LSD-40) is a vessel of the Navy which, due to its special construction and purpose, cannot comply fully with 72 COLREGS, Annex I, section 3(a), pertaining to the placement of the after masthead light and the horizontal distance between the forward and after masthead lights, without interfering with its special function as a naval dock landing ship. The Under Secretary of the Navy has also certified that the aforementioned lights are located in closest possible compliance with the applicable 72 COLREGS requirements.

Notice is also provided that the Under Secretary of the Navy has also determined that certain naval vessels and classes of vessels listed in the existing tables of 32 CFR 706.3 may be deleted from those tables since the exemptions from the 72 COLREGS listed in those tables for those vessels or classes of vessels have expired, and, where required, the current effective exemptions from the 72 COLREGS for those vessels or classes of vessels are now contained in the existing tables of 32 CFR 706.2. In addition, some of the vessels or classes of vessels being deleted are now in full compliance with the requirements of the 72 COLREGS, and others have been stricken from the Naval Vessel Register.

Moreover, it has been determined, in accordance with 32 CFR Parts 296 and 701, that publication of this amendment for public comment prior to adoption is impracticable, unnecessary, and contrary to public interest since it is based on technical findings that the placement of lights on USS FORT FISHER (LSD-40) in a manner differently from that prescribed herein will adversely affect the ship's ability to perform its military functions.

List of Subjects in 32 CFR Part 706

Marine safety, Navigation (Water), Vessels.

PART 706—[AMENDED]

Accordingly, 32 CFR Part 706 is amended as follows:

1. The authority citation for 32 CFR Part 706 continues to read:

Authority: 33 U.S.C. 1605.

§ 706.2 [Amended]

2. Table Five of section 706.2 is amended by adding the following vessel:

Vessel	Number	Forward masthead light less than the required height above hull. Annex I, sec. 2(a)(i)	Aft masthead light less than 4.5 meters above forward masthead light. Annex I, sec. 2(a)(ii)	Masthead lights not over all other lights and obstructions. Annex I, sec. 2(f)	Vertical separation of masthead lights used when towing less than required by Annex I, sec. 2(a)(i)	Aft masthead lights not visible over forward light 1,000 meters ahead of ship in all normal degrees of trim. Annex I, sec. 2(b)	Forward masthead light not in forward quarter of ship. Annex I, sec. 3(a)	After masthead light less than ½ ship's length aft of forward masthead light. Annex I, sec. (3)(a)	Percentage horizontal separation attained
USS FORT FISHER	LSD-40							X	46

§ 706.3 [Amended]

3. Table One of § 706.3 is amended by deleting the following Navy vessels or classes of vessels:

LCC-19 Class
LHA-1 Class
USS TULARE (LKA-112)
USS CHARLESTON (LKA-113)
USS PAUL REVERE (LPA-248)
USS FRANCIS MARION (LPA-249)
LPD-1 Class
LPH-2 Class
LSD-28 Class
LSD-36 Class
LST-1179 Class
AE-21 Class
AE-23 Class
AE-26 Class
AFS-1 Class
AO-51 Class
AOE-1 Class
AOR-1 Class
AD-14 Class
AD-26 Class
AD-37 Class
AD-41 Class
USS COMPASS ISLAND (AG-153)
USS POINT LOMA (AGDS-2)
USS LASALLE (AGF-3)
AR-5 Class
AR-28 Class
AS-11 Class
USS PROTEUS (AS-19)
AS-31 Class
AS-33 Class
AS-36 Class
USS NORTON SOUND (AVM-1)
AS-39 Class

Date: August 27, 1987.

Approved.

H. Lawrence Garrett III,

Under Secretary of the Navy.

[FR Doc. 87-21541 Filed 9-17-87; 8:45 am]

BILLING CODE 3810-AE-M

DEPARTMENT OF THE INTERIOR

National Park Service

36 CFR Parts 1, 2 and 5

Applicability of Regulations to Non-Federal Lands and Waters Under U.S. Legislative Jurisdiction

AGENCY: National Park Service, Interior.

ACTION: Final rule.

SUMMARY: The National Park Service (NPS) is making an administrative change clarifying provisions in its general regulations that pertain to the applicability of certain regulations to non-federal lands and waters under the legislative jurisdiction of the United States. The existing wording has resulted in confusion and has generated questions concerning the original intent of the NPS in promulgating these particular regulations in 1983. The revised text clarifies the applicability of these regulations, without substantive change, and reflects the original intent of the NPS as expressed in the preamble of the earlier rulemaking.

EFFECTIVE DATE: October 19, 1987.

FOR FURTHER INFORMATION CONTACT: Andy Ringgold, National Park Service, Branch of Ranger Activities, P.O. Box 37127, Washington, DC 20013-7127, Telephone: 202-343-1360.

SUPPLEMENTARY INFORMATION:

Background

On June 30, 1983 the NPS published a major revision of its general regulations (see 48 FR 30252) that eventually went into effect on April 30, 1984, codified in Title 36 of the Code of Federal Regulations (36 CFR). Section 1.2 of that rulemaking addresses the applicability and scope of NPS regulations, providing generally that NPS regulations apply to all persons entering, using, visiting or otherwise within the boundaries of lands or waters administered by the NPS. Furthermore, paragraph (b) of this section reads as follows:

> (b) The regulations contained in Parts 1 through 7 of this chapter are not applicable on privately owned lands and waters (including Indian lands and waters owned individually or tribally) within the boundaries of a park area, except as may be provided by regulations related specifically to privately owned lands under the legislative jurisdiction of the United States.

The term "legislative jurisdiction" is defined in 36 CFR 1.4 to mean "lands and waters under the exclusive or concurrent jurisdiction of the United States", which, when applied to non-federal lands, means lands and waters over which the State has ceded some or all of its legislative authority to the United States. However, the meaning of the phrase "privately owned lands", although addressed in the preamble of the 1983 rulemaking, is not defined. The same phrase is used in ten general regulations codified in 36 CFR Part 2 and has been the subject of periodic questions since those regulations were promulgated. The ten regulations that apply on "privately owned lands and waters" within the exterior boundary of a park area that are under the legislative jurisdiction of the United States are:

1. Section 2.2 Wildlife protection.
2. Section 2.3 Fishing.
3. Section 2.4 Weapons, traps and nets.
4. Section 2.13 Fires.
5. Section 2.22 (a)(2), (b) and (c) Property.
6. Section 2.30 Misappropriation of property and services.
7. Section 2.31 Trespassing, tampering and vandalism.
8. Section 2.32 Interfering with agency functions.
9. Section 2.34 Disorderly conduct.
10. Section 2.36 Gambling.

The NPS emphasizes that these regulations apply only to those lands and waters under the legislative jurisdiction of the United States that are located *within* the exterior boundaries of a park area, not to lands or waters that might lie adjacent to such boundaries.

As indicated in the 1983 rulemaking, the NPS applied these regulations to "privately owned lands and waters" that are located within park boundaries and that are under the legislative jurisdiction of the United States in order to allow the NPS to respond to complaints from landowners concerning incidents such as disorderly conduct, fighting, hunting or discharging weapons, playing loud music or other disturbances, abandoned property, trespassing, tampering with private property, and gambling. The NPS determined that those provisions were the minimum necessary to protect non-federal property rights and ensure public safety for non-federal property owners, and it continues to hold that position. In the preamble discussion of that rulemaking (48 FR 30253, 30260 and 30261) the NPS indicated that the regulations that were made applicable on privately owned lands and waters under the legislative jurisdiction of the United States would apply on all lands and waters within a park area that were owned by private individuals, commercial entities or State agencies *and* over which the State had ceded either exclusive or concurrent jurisdiction to the United States.

The purpose of this rulemaking is to revise the text of the eleven regulations in 36 CFR Parts 1 and 2 that contain the phrase "privately owned lands and waters" or "privately owned lands" in order to clarify the NPS intent as clearly expressed in the preamble of the 1983 rulemaking. The NPS has determined that the phrase "privately owned lands" does not clearly encompass the full range of non-federal landowners originally intended. Accordingly, that phrase is being deleted from the regulations in question in favor of text that clarifies the fact that those regulations apply, regardless of land ownership, on lands and waters within a park area that are under the legislative jurisdiction of the United States.

The final rule also revises two nondiscrimination regulations in 36 CFR Part 5 that date from a 1966 rulemaking and that apply to commercial and private operations conducted within park areas. These regulations are:

1. Section 5.8 Discrimination in employment practices.
2. Section 5.9 Discrimination in furnishing public accommodations and transportation services.

These sections, which were inadvertently omitted from the proposed rule, both contain provisions that are applicable on "privately-owned lands" under the legislative jurisdiction of the United States. Their applicability provisions are being revised in the interest of consistency.

Summary and Analysis of Public Comments

A proposed rule was published in the **Federal Register** on April 14, 1987 (52 FR 12037) and a 30-day period provided for public review and comment. The NPS received four comments during this period, two each from State agency representatives and Federal agency representatives.

One State official urged that the language in the proposed rule not be adopted because it would result in the extension of NPS regulations to lands owned and administered by that agency within one unit of the National Park System. As discussed in the proposed rule and reemphasized in this rulemaking, the change in regulatory text is intended to be an editorial change, not a substantive change expanding the applicability of NPS

regulations. The NPS has carefully reviewed the proposal in its entirety and has determined that no expansion of authority, applicability or scope has taken place. If the State-owned lands in question were under the legislative jurisdiction of the United States at the time, the June 30, 1983 NPS rulemaking that went into effect on April 30, 1984 made the ten regulations in 36 CFR Part 2 applicable to those lands on that date. The proposed rule of April 14, 1987 and this final rule have not affected that situation other than to clarify the fact that those regulations do apply on those State-owned lands. The fact that the State official raised this point lends additional weight to the NPS position that clarification of this regulation was necessary.

The second State official suggested that the definition of the term "legislative jurisdiction" codified in 36 CFR 1.4 be revised to clarify the fact that the jurisdiction of the United States is based upon that which has been clearly and expressly ceded to it by the State. Cession by a State is a common method by which the NPS acquires legislative jurisdiction within a park area and the only method by which jurisdiction over non-federal lands and waters may be acquired. However, acquisition of legislative jurisdiction by the United States may also take place by State consent pursuant to article I, section 8, clause 17 of the U.S. Constitution or by reservation at the time a State was admitted to the Union. Therefore, the extent of jurisdiction exercised by the United States does not in all cases depend on that which was ceded by the State. To define the term "legislative jurisdiction" in a way that would alter its common meaning and that would not apply in all cases in which the term might be used would create unnecessary confusion. For this reason, the NPS has not adopted the suggested revision in regulatory text but has explained the issue in greater detail.

Both Federal agency officials expressed concern that this rulemaking might extend NPS jurisdiction over certain Indian Trust Lands administered by that agency. However, the examples used to illustrate this concern all consisted of reservation lands located *adjacent* to boundaries of certain park areas, not *within* their boundaries. NPS general regulations apply only as specified in the Code of Federal Regulations; there are no provisions that make NPS regulations applicable on lands or waters outside the boundaries of a park area unless those lands or waters are owned by, administered by or subject to the jurisdiction of the NPS. The NPS neither owns, nor administers nor has jurisdiction over Indian Trust Lands located adjacent to the boundaries of any park area, although several park areas and Indian reservations do share common boundaries. The regulations that are the subject of this rulemaking do not apply on such lands, nor do they extend the applicability of other NPS regulations to those lands.

One Federal agency official also suggested that the proposed rule had raised more questions than it had resolved concerning the status of Indian Trust Lands. The NPS has attempted to remove any remaining confusion by revising slightly the text of 36 CFR 1.2(b) in the final rule to clarify the applicability of NPS regulations on individually-owned or tribally-owned Indian lands.

Certain specified NPS regulations apply on non-federally owned lands *and* on the specified Indian lands, but only if they are located *within* the boundaries of a park area and only if those lands are under the legislative jurisdiction of the United States.

The regulatory text of the proposed rule has not been revised otherwise as a result of the public comments received. The only other differences in the final rule result from the inclusion of the two regulations in 36 CFR Part 5 that were inadvertently omitted from the proposed rule.

Drafting Information

The primary author of this rulemaking is Andy Ringgold of the NPS Division of Ranger Activities.

Paperwork Reduction Act

This rulemaking does not contain information collection requirements that require approval by the Office of Management and Budget under 44 U.S.C. 3501 *et seq.*

Compliance With Other Laws

The Department of the Interior has determined that this document constitutes an administrative change, not subject to the provisions of Executive Order 12291, and certifies that this document will not have a significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). This rulemaking has no economic effect since it is a clarification only and neither removes substantive restrictions nor imposes new ones.

The NPS has determined that this rulemaking will not have a significant effect on the quality of the human environment, health and safety because it is not expected to:

(a) Increase public use to the extent of compromising the nature and character of the area or causing physical damage to it;

(b) Introduce noncompatible uses which might compromise the nature and characteristics of the area, or cause physical damage to it;

(c) Conflict with adjacent ownerships or land uses; or

(d) Cause a nuisance to adjacent owners or occupants.

Based in this determination, this rulemaking is categorically excluded from the procedural requirements of the National Environmental Policy Act (NEPA) by Departmental regulations in 516 DM 6, (49 FR 21438). As such, neither an Environmental Assessment nor an Environmental Impact Statement has been prepared.

List of Subjects

36 CFR Part 1

National parks, Penalties, Reporting and recordkeeping requirements, Signs and symbols.

36 CFR Part 2

Environmental protection, National parks, Reporting and recordkeeping requirements.

36 CFR Part 5

Alcohol and alcoholic beverages, Business and industry, Civil rights, equal employment opportunity, National parks, Transportation.

In consideration of the foregoing, 36 CFR Chapter I is amended to read as follows:

PART 1—GENERAL PROVISIONS

1. The authority citation for Part 1 continues to read as follows:

Authority: 16 U.S.C. 1, 3, 9a, 462*l*–6a(e), 462(k); D.C. Code 8–137 (1981) and D.C. Code 40–721 (1981).

2. In § 1.2, by revising paragraph (b) to read as follows:

§ 1.2 Applicability and scope.

* * * * *

(b) Except for regulations containing provisions that are specifically applicable, regardless of land ownership, on lands and waters within a park area that are under the legislative jurisdiction of the United States, the regulations contained in Parts 1 through 5 and Part 7 of this chapter do not apply on non-federally owned lands and waters or on Indian lands and waters owned individually or tribally within the boundaries of a park area.

* * * * *

PART 2—RESOURCE PROTECTION, PUBLIC USE AND RECREATION

3. The authority citation for Part 2 continues to read as follows:

Authority: 16 U.S.C. 1, 3, 9a, 462(k).

4. In § 2.2, by revising paragraph (g) to read as follows:

§ 2.2 Wildlife protection.

* * * * *

(g) The regulations contained in this section apply, regardless of land ownership, on all lands and waters within a park area that are under the legislative jurisdiction of the United States.

* * * * *

5. In § 2.3, by revising paragraph (g) to read as follows:

§ 2.3 Fishing.

* * * * *

(g) The regulations contained in this section apply, regardless of land ownership, on all lands and waters within a park area that are under the legislative jurisdiction of the United States.

* * * * *

6. In § 2.4, by revising paragraph (g) to read as follows:

§ 2.4 Weapons, traps and nets.

* * * * *

(g) The regulations contained in this section apply, regardless of land ownership, on all lands and waters within a park area that are under the legislative jurisdiction of the United States.

* * * * *

7. In § 2.13, by revising paragraph (d) to read as follows:

§ 2.13 Fires.

* * * * *

(d) The regulations contained in this section apply, regardless of land ownership, on all lands and waters within a park area that are under the legislative jurisdiction of the United States.

* * * * *

8. In § 2.22 by revising paragraph (d) to read as follows:

§ 2.22 Property.

* * * * *

(d) The regulations contained in paragraphs (a)(2), (b) and (c) of this section apply, regardless of land ownership, on all lands and waters within a park area that are under the legislative jurisdiction of the United States.

* * * * *

9. In § 2.30, by revising paragraph (b) to read as follows:

§ 2.30 Misappropriation of property and services.

* * * * *

(b) The regulations contained in this section apply, regardless of land ownership, on all lands and waters within a park area that are under the legislative jurisdiction of the United States.

* * * * *

10. In § 2.31, by revising paragraph (b) to read as follows:

§ 2.31 Trespassing, tampering and vandalism.

* * * * *

(b) The regulations contained in this section apply, regardless of land ownership, on all lands and waters within a park area that are under the legislative jurisdiction of the United States.

* * * * *

11. In § 2.32, by revising paragraph (b) to read as follows:

§ 2.32 Interfering with agency functions.

* * * * *

(b) The regulations contained in this section apply, regardless of land ownership, on all lands and waters within a park area that are under the legislative jurisdiction of the United States.

* * * * *

12. In § 2.34, by revising paragraph (b) to read as follows:

§ 2.34 Disorderly conduct.

* * * * *

(b) The regulations contained in this section apply, regardless of land ownership, on all lands and waters within a park area that are under the legislative jurisdiction of the United States.

* * * * *

13. In § 2.36, by revising paragraph (b) to read as follows:

§ 2.36 Gambling.

* * * * *

(b) This regulation applies, regardless of land ownership, on all lands and waters within a park area that are under the legislative jurisdiction of the United States.

* * * * *

PART 5—COMMERCIAL AND PRIVATE OPERATIONS

14. The authority citation for Part 5 is revised to read as follows:

Authority: 16 U.S.C. 1, 3, 9a, 462(k).

15. In § 5.8, by revising paragraph (c) to read as follows:

§ 5.8 Discrimination in employment practices.

* * * * *

(c) The regulations contained in this section apply, regardless of land ownership, on all lands and waters within a park area that are under the legislative jurisdiction of the United States.

* * * * *

16. In § 5.9, by revising paragraph (c) to read as follows:

§ 5.9 Discrimination in furnishing public accommodations and transportation services.

* * * * *

(c) The regulations contained in this section apply, regardless of land ownership, on all lands and waters within a park area that are under the legislative jurisdiction of the United States.

* * * * *

Susan Recce,

Acting Assistant Secretary for Fish and Wildlife and Parks.

Date: August 25, 1987.

[FR Doc. 87-21570 Filed 9-17-87; 8:45 am]

BILLING CODE 4310-70-M

VETERANS ADMINISTRATION

DEPARTMENT OF DEFENSE

38 CFR Part 21

Veterans Education; Increase in Rates Payable in the Educational Assistance Test Program

AGENCY: Veterans Administration and Department of Defense.

ACTION: Final regulations.

SUMMARY: The law provides that rates of subsistence allowance and educational assistance payable under the Educational Assistance Test Program shall be adjusted annually based upon the average actual cost of attendance at public institutions of higher education in the 12-month period since the rates were last adjusted. After consultation with the Department of Education, the Department of Defense has concluded that these rates should be increased by 6.1 percent. The regulations dealing with these rates are adjusted accordingly.

EFFECTIVE DATE: October 1, 1986.

FOR FURTHER INFORMATION CONTACT: June C. Schaeffer, Assistant Director for Education Policy and Program

Administration, Vocational Rehabilitation and Education Service (225), Department of Veterans Benefits, Veterans Administration, 810 Vermont Avenue NW., Washington, DC 20420, (202) 233–2092.

SUPPLEMENTARY INFORMATION: On pages 3288 and 3289 of the **Federal Register** of February 3, 1987, there was published a proposal to amend 38 CFR Part 21 to increase the rates of educational assistance and subsistence allowance payable under the Educational Assistance Test Program. Interested people were given 30 days to submit comments, suggestions and objections.

The Veterans Administration (VA) and Department of Defense (DOD) received no comments, suggestions or objections. Accordingly, the agencies are making the proposal final without change.

These increases are effective October 1, 1986. Retroactive effect is warranted because these changes are liberalizing, and because they are interpretative rules which implement and construe the meaning of a law. Moreover, there is good cause for a retroactive effective date of October 1, 1986. Such a date facilitates implementation of 10 U.S.C. 2145 which requires annual adjustments in educational assistance.

The VA and DOD have determined that these amended regulations do not contain a major rule as that term is defined by E.O. 12291, entitled Federal Regulation. The regulations will not have a $100 million annual effect on the economy, and will not cause a major increase in costs or prices for anyone. They will have no significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

The Administrator of Veterans Affairs and the Secretary of Defense have certified that these amended regulations will not have a significant economic impact on a substantial number of small entities as they are defined in the Regulatory Flexibility Act (RFA), 5 U.S.C. 601–612. Pursuant to 5 U.S.C. 605(b), the amended regulations, therefore, are exempt from the initial and final regulatory flexibility analyses requirements of sections 603 and 604.

This certification can be made because the regulations make adjustments required by law, and because they affect only rates payable to individuals. No regulatory, administrative, or paperwork burdens are imposed on any type of small entities.

There is no Catalog of Federal Domestic Assistance number for the program affected by these regulations.

List of Subjects in 38 CFR Part 21

Civil rights, Claims, Education, Grant programs-education, Loan programs-education, Reporting and recordkeeping requirements, Schools, Veterans, Vocational education, Vocational rehabilitation.

Approved: June 24, 1987.

Thomas K. Turnage,

Administrator.

Approved: July 27, 1987.

A. Lukeman,

Lieutenant General, USMC, Deputy Assistant Secretary (Military Manpower and Personnel Policy).

38 CFR Part 21, *Vocational Rehabilitation and Education,* is amended as follows:

PART 21—[AMENDED]

1. In § 21.5820 the introductory text of paragraph (b), paragraphs (b)(1)(ii)(A) and (b)(1)(ii)(B), and paragraphs (b)(2)(ii)(A) and (b)(2)(ii)(B) are revised to read as follows:

§ 21.5820 Educational assistance.

* * * * *

(b) *Amount of educational assistance.* The amount of educational assistance may not exceed $1,560 per standard academic year, adjusted annually by regulation.

(Authority: 10 U.S.C. 2143)

(1) * * *

(ii) * * *

(A) Multiplying the number of whole months in the enrollment period by $173.33 for a full-time student or by $86.67 for a part-time student;

(B) Multiplying any additional days in the enrollment period by $5.77 for a full-time student or by $2.88 for a part-time student; and (10 U.S.C. 2143).

* * * * *

(2) * * *

(ii) * * *

(A) Multiplying the number of whole months in the enrollment period by $173.33 for a full-time student or by $86.67 for a part-time student;

(B) Multiplying any additional days in the enrollment period by $5.77 for a full-time student or by $2.88 for a part-time student; and (10 U.S.C. 2143).

* * * * *

2. In § 21.5822 paragraphs (b)(1)(i) and (b)(1)(ii) and paragraphs (b)(2)(i) and (b)(2)(ii) are revised to read as follows:

§ 21.5822 Subsistence allowance.

* * * * *

(b) * * *

(1) * * *

(i) If a person is pursuing a course of instruction on a full-time basis, his or her subsistence allowance is $389 per month, adjusted annually by regulation.

(ii) If a person is pursuing a course of instruction on other than a full-time basis, his or her subsistence allowance is $194.50 per month.

(Authority: 10 U.S.C. 2144)

* * * * *

(2) * * *

(i) The VA shall determine the monthly rate of subsistence allowance payable to a person for a day during which he or she is pursuing a course of instruction full-time by dividing $389 per month by the number of the deceased veteran's dependents pursuing a course of instruction on that day.

(ii) The VA shall determine the monthly rate of subsistence allowance payable to a person for a day during which he or she is pursuing a course of instruction on other than a full-time basis by dividing $194.50 per month by the number of the deceased veteran's dependents pursuing a course of instruction on that day.

(Authority: 10 U.S.C 2144)

* * * * *

[FR Doc. 87–21567 Filed 9–17–87; 8:45 am]

BILLING CODE 8320–01–M

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 64

[Docket No. FEMA 6762]

List of Communities Eligible for the Sale of Flood Insurance

AGENCY: Federal Emergency Management Agency.

ACTION: Final rule.

SUMMARY: This rule lists communities participating in the National Flood Insurance Program (NFIP). These communities have applied to the program and have agreed to enact certain floodplain management measures. The communities' participation in the program authorizes the sale of flood insurance to owners of property located in the communities listed.

EFFECTIVE DATES: The dates listed in the fourth column of the table.

ADDRESSES: Flood insurance policies for property located in the communities

listed can be obtained from any licensed property insurance agent or broker serving the eligible community, or from the National Flood Insurance Program (NFIP) at: P.O. Box 457, Lanham, Maryland 20706, Phone: (800) 638–7418.

FOR FURTHER INFORMATION CONTACT: Frank H. Thomas, Assistant Administrator, Office of Loss Reduction, Federal Insurance Administration, (202) 646–2717, Federal Center Plaza, 500 C Street, Southwest, Room 416, Washington, DC 20472.

SUPPLEMENTARY INFORMATION: The National Flood Insurance Program (NFIP), enables property owners to purchase flood insurance at rates made reasonable through a Federal subsidy. In return, communities agree to adopt and administer local floodplain management measures aimed at protecting lives and new construction from future flooding. Since the communities on the attached list have recently entered the NFIP, subsidized flood insurance is now available for property in the community.

In addition, the Director of the Federal Emergency Management Agency has identified the special flood hazard areas in some of these communities by publishing a Flood Hazard Boundary Map. The date of the flood map, if one has been published, is indicated in the sixth column of the table. In the communities listed where a flood map has been published, section 102 of the Flood Disaster Protection Act of 1973, as amended, requires the purchase of flood insurance as a condition of Federal or federally related financial assistance for acquisition or construction of buildings in the special flood hazard area shown on the map.

The Director finds that the delayed effective dates would be contrary to the public interest. The Director also finds that notice and public procedure under 5 U.S.C. 553(b) are impracticable and unnecessary.

The Catalog of Domestic Assistance Number for this program is 83.100 "Flood Insurance."

Pursuant to the provisions of 5 U.S.C. 605(b), the Administrator, Federal Insurance Administration, to whom authority has been delegated by the Director, Federal Emergency Management Agency, hereby certifies that this rule, if promulgated will not have a significant economic impact on a substantial number of small entities. This rule provides routine legal notice stating the community's status in the NFIP and imposes no new requirements or regulations on participating communities.

List of Subjects in 44 CFR Part 64

Flood insurance, Floodplains.

PART 44—[AMENDED]

1. The authority citation for Part 64 continues to read as follows:

Authority: 42 U.S.C. 4001 et. seq., Reorganization Plan No. 3 of 1978, E.O. 12127.

2. Section 64.6 is amended by adding in alphabetical sequence new entries to the table.

In each entry, a complete chronology of effective dates appears for each listed community. The entry reads as follows:

§ 64.6 List of eligible communities.

State	Location	Community No.	Effective dates of authorization/cancellation of sale of Flood Insurance in community	Current effective map date	Date certain Federal assistance no longer available in special flood hazard areas
Region I—Regular Conversions					
Maine	Lincoln, town of, Penobscot County.	230109	June 11, 1975, Emerg., Sept. 18, 1987, Reg., Sept. 18, 1987, Susp.	Sept. 18, 1987	Sept. 18, 1987.
Region III					
Delaware	Elsmere, town of, New Castle County.	100023	Oct. 2, 1974, Emerg., Dec. 31, 1976, Reg., Sept. 18, 1987, Susp.	Sept. 18, 1987	Do.
Pennsylvania	Applewold, borough of, Armstrong County.	620093	Mar. 11, 1975 , Emerg., Sept. 18, 1987, Reg., Sept. 18, 1987, Susp.	Sept. 18, 1987	Do.
Do	Ceres, township of, McKean County.	421853	Aug. 6, 1974, Emerg., Sept. 18, 1987, Reg., Sept. 18, 1987, Susp.	Sept. 18, 1987	Do.
Do	Conneautville, borough of, Crawford County.	420349	May 28, 1975, Emerg., Sept. 18, 1987, Reg., Sept. 18, 1987, Susp.	Sept. 18, 1987	Do.
Do	Standing Stone, township of, Bradford County.	621406	Mar. 9, 1977, Emerg., Sept. 18, 1987, Reg., Sept. 18, 1987, Susp.	Sept. 18, 1987	Do.
Do	St. Clair, township of, Westmoreland County.	422191	Aug. 22, 1977, Emerg., Sept. 18, 1987, Reg., Sept. 18, 1987, Susp.	Sept. 18, 1987	Do.
Do	Ulster, township of, Bradford County.	421218	July 29, 1975, Emerg., Sept. 18, 1987, Reg., Sept. 18, 1987, Susp.	Sept. 18, 1987	Do.
West Virginia	Lincoln County, unincorporated areas.	540088	May 24, 1976, Emerg., Sept. 18, 1987, Reg., Sept. 18, 1987, Susp.	Sept. 18, 1987	Do.
Do	Westmoreland County, unincorporated areas.	510250	Sept. 23, 1974, Emerg., Sept. 18, 1987, Reg., Sept. 18, 1987, Susp.	Sept. 18, 1987	Do.
Region IV					
Mississippi	Hancock County, unincorporated areas.	285254	June 30, 1970, Emerg., Sept. 9, 1970, Reg., Sept. 18, 1987, Susp.	Sept. 18, 1987	Do.
Region V					
Illinois	Wood Dale, city of	170224	Feb. 2, 1973, Emerg., Sept. 30, 1977, Reg., Sept. 18, 1987, Susp.	Sept. 18, 1987	Do.
Ohio	Brecksville, city of, Cuyahoga County.	390098	July 11, 1975, Emerg., Jan. 16, 1981, Reg., Sept. 18, 1987, Susp.	Sept. 18, 1987	Do.
Region VI					
Louisiana	Clarence, village of, Natchitoches Parish.	220130	Mar. 8, 1976, Emerg., Sept. 18, 1987, Reg., Sept. 18, 1987, Susp.	Sept. 18, 1987	Do.
Do	Natchitoches parish, unincorporated areas.	220129	May 10, 1973, Emerg., Sept. 18, 1987, Reg., Sept. 18, 1987, Susp.	Sept. 18, 1987	Do.
Region VII					
Iowa	Des Moines, city of, Polk County	190227	Sept. 6, 1974, Emerg., Feb. 4, 1981, Reg., Sept. 18, 1987, Susp.	Sept. 18, 1987	Do.

State	Location	Community No.	Effective dates of authorization/cancellation of sale of Flood Insurance in community	Current effective map date	Date certain Federal assistance no longer available in special flood hazard areas
Region VIII					
Colorado	Longmont, city of, Boulder County	080027	Nov. 26, 1971, Emerg., July 5, 1977, Reg., Sept. 18, 1987, Susp.	Sept. 18, 1987	Do.
North Dakota	Alexander, city of McKenzie County.	380055	March 10, 1976, Emerg., Sept. 18, 1987, Reg., Sept. 18, 1987, Susp.	Sept. 18, 1987	Do.
Region IX					
California	Clearlake, city of, Lake County	060714	Feb. 19, 1971, Emerg., Oct. 17, 1978, Reg., Sept. 18, 1987, Susp.	Sept. 18, 1987	Do.
Region X					
Alaska	Anchorage, municipality of Anchorage division.	020005	June 12, 1970, Emerg., Sept. 5, 1979, Reg., Sept. 18, 1987, Susp.	Sept. 18, 1987	Do.
Oregon	Canyon City, city of, Grant County	410075	Oct. 18, 1974, Emerg., Sept. 18, 1987, Reg., Sept. 18, 1987, Susp.	Sept. 18, 1987	Do.
Do	Mt. Vernon, city of, Grant County	410080	Aug. 1, 1975, Emerg., Sept. 18, 1987, Reg., Sept. 18, 1987, Susp.	Sept. 18, 1987	Do.
Region III—Minimals Conversions					
Pennsylvania	Rutland, township of, Tioga County.	422099	Mar. 14, 1975, Emerg., Aug. 1, 1987, Reg., Sept. 18, 1987, Susp.	Aug. 1, 1987	Aug. 1, 1987.
Region IV					
Mississippi	Baldwyn, city of, Prentiss and Lee Counties.	280134	Dec. 2, 1974, Emerg., Sept. 18, 1987, Reg., Sept. 18, 1987, Susp.	Sept. 18, 1987	Sept. 18, 1987.
Do	Saltillo, town of, Lee County	280261	July 24, 1975, Emerg., Sept. 18, 1987, Reg., Sept. 18, 1987, Susp.	Sept. 18, 1987	Do.
Region V					
Minnesota	Fillmore County, unincorporated areas.	270124	Apr. 16, 1974, Emerg., Sept. 18, 1987, Reg., Sept. 18, 1987, Susp.	Sept. 18, 1987	Do.
Do	Raymond, city of, Kandiyohi County.	270222	Mar. 5, 1975, Emerg., Sept. 18, 1987, Reg., Sept. 18, 1987, Susp.	Sept. 18, 1987	Do.
Ohio	Portage County, unincorporated areas.	390453	Feb. 11, 1977, Emerg., Sept. 18, 1987, Reg., Sept. 18, 1987, Susp.	Sept. 18, 1987	Do.
Do	Wyandot County, unincorporated areas.	390787	Dec. 21, 1978, Emerg., Sept. 18, 1987, Reg., Sept. 18, 1987, Susp.	Sept. 18, 1987	Do.
Do	Hemlock, village of, Tioga County	390708	Feb. 27, 1976, Emerg., Aug. 19, 1987, Reg., Sept. 18, 1987, Susp.	Aug. 19, 1987	Aug. 19, 1987.
Region VII					
Nebraska	Stanton, city of, Stanton County	310217	May 12, 1975, Emerg., Sept. 18, 1987, Reg., Sept. 18, 1987, Susp.	Sept. 18, 1987	Sept. 18, 1987.
Region VIII					
North Dakota	Velva, township of, McHenry County.	380310	Mar. 31, 1976, Emerg., Sept. 18, 1987, Reg., Sept. 18, 1987, Susp.	Sept. 18, 1987	Do.

Code for reading fourth column: Emerg.—Emergency, Reg.—Regular, Susp.—Suspension, Rein.—Reinstatement.

Harold T. Duryee,
Administrator, Federal Insurance Administration.

Issued: September 10, 1987.

[FR Doc. 87-21571 Filed 9-17-87; 8:45 am]

BILLING CODE 6718-03-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 80

Maritime Radio Services

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This action amends, clarifies and corrects Part 80 governing the Maritime Radio Services. Part 80 became effective on October 2, 1986, and has been governing the maritime community for approximately ten months. During this period, a number of cases requiring minor clarifications or corrections have been brought to the attention of the Commission staff. The purpose of this action is to incorporate those changes into Part 80.

EFFECTIVE DATE: September 18, 1987.

ADDRESS: Federal Communications Commission, Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: Robert E. Mickley, Private Radio Bureau, (202) 632-7175.

SUPPLEMENTARY INFORMATION:

List of Subjects in 47 CFR Part 80

Maritime, Radio, Vessel.

Order

In the matter of editorial amendments to Part 80 of the rules concerning the maritime radio services.

Adopted: August 6, 1987.
Released: August 28, 1987.

1. This Order amends and corrects Part 80 of the Commission's Rules which govern the maritime radio services. Part 80 became effective on October 2, 1986.[1] This action was part of the Commission's ongoing effort to review, simplify and clarify its regulations. Part 80 reorganized and revised the maritime rules contained in Parts 81 and 83 and combined them into a single part. The *Report and Order* in PR Docket No. 85-145 stated that the changes incorporated in Part 80 were primarily editorial in nature and were not intended to alter substantive requirements except where specifically described.

2. Part 80 now has been effective for approximately ten months. During this period, a number of rules requiring clarification or correction have been brought to our attention by the maritime community and through staff review. This Order updates the maritime rules by clarifying and correcting Part 80 accordingly.

[1] See *Report and Order*, PR Docket No. 85-145, FCC 86-141, 51 FR 31206 (1986).

3. Because these amendments are editorial or interpretive in nature, intended to clarify and correct Part 80, the notice and comment procedure and the 30 day effective date provision of the Administrative Procedure Act is unnecessary. See 5 U.S.C. 553(b) and (d), 47 CFR 1.412(b) and 47 CFR 1.427(b).

4. Accordingly, it is ordered, that pursuant to the authority delegated to the Managing Director by § 0.231(d) of the Rules, Part 80 of the Commission's Rules is amended as set forth in the attached Appendix, effective upon publication in the **Federal Register.**

5. Regarding questions on matters covered in this document, contact Robert Mickley (202) 632-7175.

Federal Communications Commission.

Edward J. Minkel,

Managing Director.

Appendix

Part 80 of Chapter I of Title 47 of the Code of Federal Regulations is amended as follows:

PART 80—STATIONS IN THE MARITIME SERVICES

1. The authority citation for Part 80 continues to read:

Authority: Secs. 4, 303, 48 Stat. 1066, 1082, as amended 47 U.S.C. 154, 303, unless otherwise noted. Interpret or apply 48 Stat. 1064–1068, 1081–1105, as amended; 47 U.S.C. 151–155, 301–609; 3 UST 3450, 3 UST 4726, 12 UST 2377, unless otherwise noted.

2. In the table of contents at the beginning of Part 80, correct the section title opposite section designator 80.471 to read, "Discontinuance or impairment of service."

§ 80.5 [Amended]

3. In § 80.5, under the term "Urgency signal", the third paragraph is revised to read, "(3) in radiotelephony, the international urgency signal consists of three oral repetitions of the group of words "PAN PAN", each word of the group pronounced as the French word "PANNE" and sent before the call."

§ 80.19 [Corrected]

4. The table in § 80.19 is corrected by adding a solid horizontal line in all three columns immediately above the "Public Coast" entry appearing in the first column.

§ 80.80 [Amended]

5. Footnote 1 applicable to § 80.80 is revised to read, "[1] Ship station transmitters, except hand-held portable transmitters, manufactured after January 21, 1987 must automatically reduce the carrier power to one watt or less when turned to the frequency 156.375 MHz or 156.650 MHz. All ship station tramsmitters, except hand-held portable transmitters, used after January 21, 1997, must automatically reduce power as described above. A manual override device must be provided which when held by the operator will permit full carrier power operation on channels 13 and 67. Hand-held portable transmitters must be capable of reducing power to one watt, but need not do so automatically."

§ 80.89 [Amended]

6. Section 80.89 is amened by adding a new paragraph (g) to read, "(g) Transmit on frequencies or frequency bands not authorized on the current station license."

§ 80.95 [Amended]

7. In §80.95, paragraph (a)(3) is revised to read "(3) Distress calls and related traffic; and"

§ 80.102 [Amended]

8. In § 80.102, the first sentence in paragraph (a) is revised to read, "Except as provided in paragraphs (d) and (e) of this section, stations must give the call sign in English,"; and a new paragraph (e) is added to read, "(e) VHF public coast station may identify by means of the approximate geographic location of the station or the area it serves when it is the only VHF public coast station serving the location or there will be no conflict with the identification of any other station."

§ 80.111 [Amended]

9. Section 80.111 is amended by adding a new paragraph (a)(6) to read, "(6) Calls to establish communication must be initiated on an available common working frequency when such a frequency exists and it is known that the called ship maintains a simultaneous watch on the common working frequency and the appropriate calling frequency(ies)."

§ 80.143 [Corrected]

10. In §80.143, paragraph (b) is corrected by adding paragraph (b)(4) to read, "(4) All other frequencies necessary for its service."

§ 80.207 [Amended]

11. In § 80.207, the introductory portion of paragraph (a) is revised to read, "(a) Authorization to use radiotelephone and radiotelegraph emissions by ship and coast stations includes the brief use of radiotelegraphy, including keying only the modulating audio frequency, tone signals, digital selective calling and other signalling devices to establish or maintain communications, provided,"; and paragraph (a)(4) is added to read, "(4) Use of selective calling equipment based upon this section, other than DSC equipment, may be continued for at least three years subsequent to an FCC Order that will authorize DSC as the only selective calling technique permitted for use in the maritime services. To quality for the continuation, the equipment must be used at the same station location where it was installed and operating on the date of the indicated FCC Order. This paragraph is not applicable to AMTS in the 216–220 MHz band or to NB–DP equipment that complies with CCIR Recommendation 476.

§ 80.215 [Corrected and Amended]

12. In § 80.215, correct the frequency band in paragraph (b)(1)(i) to read, "4000–8000 kHz" vice "4000–7000 kHz"; paragraph (c)(1) is amended by adding the footnote designator, "[12]" after footnote designator "[1]" appearing opposite the 156–162 MHz band; the second category entry in paragraph (e)(1) is revised to read, "Marine utility stations and hand-held portable transmitters 156–162 MHz; add footnote "[12]" in numerical order to read, "[12] The frequencies 156.375 MHz and 156.650 MHz are primarily intership frequencies. When authorized for coast stations on a secondary basis, the normal output power must not exceed 1 watt and the maximum output power must not exceed 10 watts."; paragraph (g)(3) is revised to read, "(3) Except as indicated in (4) of this paragraph, all transmitters manufactured after January 21, 1987, or in use after January 21, 1997, must automatically reduce the carrier power to one watt or less when the transmitter is tuned to 156.375 MHz or 156.650 MHz, and must be provided with a manual override switch which when held by an operator will permit full carrier power operation on 156.375 MHz and 156.650 MHz; "; and paragraph (g)(4) is revised to read, "(4) Hand-held portable transmitters are not required to comply with the automatic reduction of carrier power in (g)(3) of this section; and".

§ 80.215 [Corrected]

13. In §80.215, correct the paragraph designators of paragraphs (l) and (m), as published in the **Federal Register** on March 11, 1987, (52 FR 7417) to read (m) and (n). The first paragraph (l), which begins with the words "For operational fixed stations" remains unchanged.

§ 80.219 Corrected]

14. In § 80.219, paragraph (a)(3) is corrected to read, "(3) Use class F1B or

J2B emission with a total frequency shift of 170 Hertz."

§ 80.225 [Amended]

15. In § 80.225, the introductory paragraph is amended by removing the third sentence.

§ 80.303 [Amended]

16. In § 80.303, paragraph (a) is revised to read, "(a) During its hours of operation, each coast station operating in the 156–162 MHz band and serving rivers, bays and inland lakes except the Great Lakes, must maintain a safety watch on the frequency 156.800 MHz except when transmitting on 156.800 MHz.

§ 80.327 [Amended]

17. In §80.327, paragraph (c) is revised to read, "(c) In radiotelephony, the urgency signal consists of three oral repetitions of the group of words PAN PAN transmitted before the call."

§ 80.355 [Amended]

18. In § 80.355, the section title is revised to read, "Distress, urgency, safety, call and reply Morse code frequencies."

§ 80.369 [Amended]

19. In § 80.369, paragraph (c) is revised to read, "(c) The frequency 5167.5 kHz is available to any station for emergency communications in the State of Alaska. Peak envelope power of stations operating on this frequency must not exceed 150 watts. This frequency may also be used by Alaska private fixed stations for calling and listening, but only for establishing communication."

§ 80.371 [Amended]

20. In § 80.371 the frequency table in paragraph (a) is revised by adding new frequency pair "2406.0" to the ship transmit column and "2506.0" to the coast transmit column at the bottom of the "East Coast" frequency block.

21. In § 80.371, the second sentence in paragraph (d) is revised to read, "The following table describes the working carrier frequencies below 2750.0 kHz for simplex radiotelephony communications for use between public coast stations serving the Mississippi River System and ship stations within communication service range, whether or not the ship is operating within the confines of the Mississippi River System."

§ 80.373 [Amended]

22. In § 80.373(c), the frequency table in paragraph (c)(1) is amended by adding footnote symbol "[3]" to the right of frequencies 2065.0 and 2079.0, and by adding footnote symbol "[4]" to the right of frequencies 3023.0 and 5680.0; by adding footnote [3] in numerical order below the frequency table in paragraph (c)(1) to read, "[3] The frequencies 2065.0 kHz and 2079.0 kHz must be coordinated with Canada."; by adding footnote [4] in numerical order below the frequency table in paragraph (c)(1) to read, "[4] The frequencies 3023.0 kHz and 5680.0 kHz are available to private coast stations licensed to state and local governments and any scene-of-action ships for the purpose of search and rescue scene-of-action coordination including communications with any scene-of-action aircraft."; the introductory portion of paragraph (c)(2) is revised to read, "(2) Assignment of these frequencies is subject to the following general limitations:"; paragraph (c)(2)(iii) is amended to be punctuated at the end with a period; and paragraphs (c)(2)(iv) and (c)(2)(v) are removed.

23. In § 80.373(f), amend the frequency table after the listing of frequencies in the "Noncommercial" frequency category by adding a new frequency category "Distress, Safety and Calling" and adding one frequency under the new frequency category with four columnar entries to read, "16", "156.800", "156.800" and "EPRIB"; amend the frequency table opposite channel designator "17" under the Maritime Control frequency category by removing the entire fourth column entry; amend footnote [2] by inserting the word "only" after the word "use"; revise the second sentence in footnote [4] to read, "Normal output power must not exceed 1 watt."; revise footnote [5] to read "[5], 156.375 MHz and 156.650 MHz are available primarily for intership navigational communications. These frequencies are available between coast and ship on a secondary basis when used on or in the vicinity of locks or drawbridges. Normal output power must not exceed 1 watt. Maximum output power must not exceed 10 watts for coast stations or 25 watts for ship stations."; revise footnote [9] to read, "[9] when the frequency 156.850 MHz is authorized, it may be used additionally for search and rescue training exercises conducted by state or local governments."; revise the first sentence of footnote [10] to read, "The frequency 156.850 MHz is additionally available to coast stations on the Great Lakes for transmission of scheduled Coded Marine Weather Forecasts (MAFOR), Great Lakes Weather Broadcast (LAWEB) and unscheduled Notices to Mariners or Bulletins."

24. In § 80.373(i), the paragraph title is revised to read, *"Frequencies in the 1600–5450 kHz band for private communications in Alaska."*

§ 80.383 [Corrected]

25. In § 80.383(b), correct paragraph (b)(2) to read, "(2) New Orleans: The rectangle between North latitudes 27 degrees 30 minutes and 31 degrees 30 minutes and West longitudes 87 degrees 30 minutes and 93 degrees;".

§ 80.387 [Amended]

26. In § 80.387(b), the frequency table is amended by adding the entry "5167.5 [3]" in numerical order to the third column; and by adding a new footnote [3] in numerical order below the frequency table to read, "[3] The frequency 5167.5 kHz is available for emergency communications in Alaska. Peak envelop power of stations operating on this frequency must not exceed 150 watts. When a station in Alaska is authorized to use 5167.5 kHz, such station may also use this frequency for calling and listening for the purpose of establishing communications."

§ 80.409 [Amended]

27. In § 80.409, paragraph (a)(3) is revised to read, "(3) Ship station logs must identify the vessel name, country of registry, and official number of the vessel.

28. In § 80.409, paragraph (f)(1) is revised to read, "(1) Radiotelephony stations subject to Parts II and III of Title III of the Communications Act and/or the Safety Convention must record entries indicated by paragraphs (e)(2) through (e)(11) of this section."

§ 80.471 [Corrected]

29. In § 80.471, the section title is corrected to read, "Discontinuance or impairment of service."

§ 80.475 [Amended and Corrected]

30. In § 80.475, paragraph (a) is revised to read, "(a) An AMTS may serve the upper and/or lower sectors of the Mississippi River, its connecting waterways, the Gulf Intracoastal Waterway, and the offshore waters of the Gulf of Mexico. An AMTS serving the eastern or western sector of the offshore waters of the Gulf of Mexico, that is, East or West of longitude 87°45' W, must provide service to the 100 fathom line or 40 nautical miles offshore, whichever is greater."; the last sentence in paragraph (b)(1) is corrected to read, "See § 80.215(h)."; and the last sentence in paragraph (b)(2) is corrected to read, "A list of the notified television stations must be submitted with the subject applications."

§ 80.477 [Amended]

31. Section 80.477 is amended by adding a new paragraph (c) to read, "(c) AMTS service may be provided to any

vessel within communication service range of an AMTS station even though the vessel may not be operating within the confines of a served waterway."

32. A new § 80.514 is added to read as follows:

§ 80.514 Marine VHF frequency coordinating committee(s).

This section contains the names of organizations that have been recognized by the Commission to serve as marine VHF frequency coordinating committees for their respective areas. Write or call FCC; Private Radio Bureau Licensing Division; Consumer Assistance Branch; Gettysburg, PA, 17326; Phone: (717) 337–1212; for frequency advisory committee mailing address information.

(a) The Southern California Marine Radio Council serves the California counties of Santa Barbara, Kern, San Bernardino, Ventura, Los Angeles, Orange, Riverside, San Diego, Imperial and the Channel Islands.

Subpart M—[Amended]

33. Immediately preceding § 80.601, the title of Subpart M is revised to read, "Stations in the Radiodetermination Service".

§ 80.655 [Amended]

34. In § 80.655, paragraph (a)(1) is revised to read, "(1) § 80.373 for scope of communications described in § 80.653(b)(1);"; paragraph (a)(2) is redesignated as paragraph (a)(3) and a new paragraph (a)(2) is added to read, "(2) §§ 80.373 and 80.385 for scope of communications described in § 80.653(b)(2);".

§ 80.859 [Corrected]

35. Two sections have been erroneously assigned the section designator "§ 80.859." The section designator applicable to the section entitled "Reserve power supply" is corrected to read, "§ 80.860."

§ 80.871 [Corrected]

36. In § 80.871, the frequency table in paragraph (d) is corrected by removing line 21 concerning channel 70 in its entirety.

37. A new § 80.879 is added to read as follows:

§ 80.879 Radar installation requirements and specifications.

Ships of 500 gross tons and upwards that are constructed on or after September 1, 1984, must comply with the radar installation requirements and specifications contained in § 80.825 of this part.

38. Section 80.1019 is revised to read as follows:

§ 80.1019 Antenna radio frequency indicator.

Each nonportable bridge-to-bridge transmitter must be equipped, at each point of control, with a carrier operated device which will provide continuous visual indication when the transmitter is supplying power to the antenna transmission line or, in lieu thereof, a pilot lamp or meter which will provide continuous visual indication when the transmitter control circuits have been placed in a condition to activate the transmitter.

§ 80.1053 [Corrected]

39. In § 80.1053, correct the 3 character emission designator symbol in paragraph (a)(4) to read, "A3X".

§ 80.1055 [Corrected]

40. Section 80.1055(a)(3) is corrected to read, "(3) Meet the requirements in § 80.1053 (a)(4) through (a)(7), (a)(12) and (c) through (i)."

[FR Doc. 87–21600 Filed 9–17–87; 8:45 am]
BILLING CODE 6712–01–M

---

47 CFR Part 80

[PR Docket No. 86–340, RM–5227; FCC 87–277]

Maritime Services Rules Concerning Compulsory Ship Radar Equipment Specifications for New Installations

AGENCY: Federal Communications Commission (FCC).

ACTION: Final rule.

SUMMARY: The FCC has amended its maritime rules concerning equipment specifications for new compulsory navigational radar installations on oceangoing ships of 500 gross tons and upwards. This action is taken to reconcile the minor differences contained in the separate radar documents and have a single document apply to new radar installations on compulsory equipped ships.

DATES: Effective date: October 13, 1987.

Incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of October 13, 1987.

ADDRESS: Federal Communications Commission, 1919 M Street NW., Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: Robert E. Mickley, Private Radio Bureau, Aviation and Marine Branch, Washington, DC 20554, (202) 632–7175.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Report and Order in PR Docket No. 86–340, RM–5227, adopted August 18, 1987, and released August 31, 1987. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, International Transcription Service, (202) 857–3800, 2100 M Street NW., Suite 140, Washington, DC 20037.

Summary of Report and Order

1. On August 19, 1986, the Commission released a Notice of Proposed Rule Making (NPRM) in PR Docket No. 86–340, RM–5227, 51 FR 31306, that proposed to update ship radar standards and specifications. The standards and specifications were proposed to be contained in a single document, incorporated by reference in the rules, and would apply to compulsory equipped ships with radar installed on or after July 1, 1988. The NPRM responded to a petition for rulemaking (RM–5227) and proposed radar performance specifications and standards submitted by the Radio Technical Commission For Maritime Services (RTCM) on behalf of the maritime industry.

2. The current radar specifications are contained in three separate documents referenced in § 80.825 of the Commission's rules. The documents are: International Convention for the Safety of Life at Sea, 1974; IMO Resolution A.477 (XII); and RTCM SC–65 Final Report, Volume II, as amended by Change 1. One or more of these documents are applicable to various ship categories determined by ship size, date of ship construction and date of radar installation. The purpose of the requested rule change was to reconcile the minor differences contained in the separate radar documents and have a single document apply to new radar installations on compulsory equipped ships. This should reduce confusion resulting from multiple documents containing specifications applicable to multiple categories of ships.

3. Comments in this proceeding were filed by the American Institute of Merchant Shipping (AIMS), the Comite International Radio Maritime (CIRM) and the RTCM. RTCM also filed reply comments.

4. AIMS supported the proposed amendments. In addition, AIMS requested that its list of minimum resources for on-board repair, contained in Volume III of the RTCM SC–65 Final Report, be referenced in § 80.825(c) of the rules. Because the rules recommend

minimum repair resources rather than a specific requirement, we are amending the rules as requested by AIMS to provide additional guidance to the maritime industry.

5. CIRM, a non-profit international association of companies concerned with the manufacture and supply of radio and radionavigation equipment for merchant ships, commented with respect to the vibration testing standards contained in RTCM Paper 153-85/SC 103-30 included as a part of the petition for rulemaking. Specifically, CIRM recommended that the frequency range at which the table is vibrated with an excursion of ±1.60 millimeters be between 5 and 12.5 Hz rather than between 0 and 12.5 Hz as contained in the RTCM paper. CIRM made its recommendation based upon action taken by Technical Committee 80 of the International Electro-Technical Commission which relaxed the vibration testing standards for marine navigational equipment.

6. RTCM's comments revised the wording of the proposed specifications to conform with IMO Resolution A.574(14) that replaced IMO Resolution A.281(VIII) concerning general requirements for marine navigational equipment. RTCM pointed out that the revision does not substantially change the meaning of the specification and has no significant effect upon the cost of the specified equipment. RTCM filed reply comments, which further revised its marine radar specification document to conform to the comments of CIRM. RTCM submitted this revision of its marine radar specification to accommodate the incorporation by reference of this single document into the rules.

7. We are amending the rules to incorporate by reference the revised marine radar specifications contained in RTCM Paper 133-87/SC 103-33 applicable to oceangoing ships of 500 gross tons and upward on or after July 1, 1988. We concur that the vibration testing standard can be relaxed as suggested by CIRM. Therefore, we are incorporating the CIRM recommendation into the rules. These specifications and standards will be contained in a single document for ease of use by radar equipment manufacturers. While radar equipment manufactured to these specifications and standards will meet or surpass the requirements for all ship categories, ship radar equipment installed prior to July 1, 1988, which meets the appropriate ship category requirements, as indicated in the rules, will continue to be authorized.

8. The rules contained herein have been analyzed with respect to the Paperwork Reduction Act of 1980 and found to contain no new or modified form, information collection and/or record keeping, labelling, disclosure, or record retention requirements; and will not increase or decrease burden hours imposed on the public.

9. We have determined that section 605(b) of the Regulatory Flexibility Act of 1980 (Pub. L. 96-354) does not apply to this rule making proceeding because if promulgated, it will not have a significant economic impact on a substantial number of small entities. These new rules only affect large oceangoing ships that are required to carry radar installations. No additional equipment will be required, nor will currently carried equipment be obsoleted by this action.

Ordering Clauses

10. For the reasons stated above, it is ordered, that under the authority contained in section 4(i) and 303(r) of the Communications Act of 1934, as amended, 47 U.S.C. 154(i) and 303(r) of the Commission's rules are amended effective October 13, 1987, as shown below.

11. It is further ordered, that this proceeding is terminated.

List of Subjects in 47 CFR Part 80

Vessels, Ship stations, Marine safety, Telecommunications equipment, Incorporation by reference.

New Rules

Part 80 of Chapter 1 of Title 47 of the Code of Federal Regulations is amended as follows:

PART 80—STATIONS IN THE MARITIME SERVICES

1. The authority citation for Part 80 continues to read as follows:

Authority: Secs. 4, 303, 48, Stat. 1066, 1082, as amended; 47 U.S.C. 154, 303, unless otherwise noted. Interpret or apply 48 Stat. 1064-1068, 1081-1105, as amended; 47 U.S.C. 151-155, 301-609; 3 UST 3450, 3 UST 4726, 12 UST 2377.

2. Section 80.825 is revised to read as follows:

§ 80.825 Radar installation requirements and specifications.

(a) Radar installations on board ships that are required by the Safety Convention or the U.S. Coast Guard to be equipped with radar must comply with either the document referenced in paragraph (a)(1) of this section or the applicable document referenced in paragraphs (a)(2) through (a)(4) of this section. These documents are incorporated by reference in accordance with 5 U.S.C. 552(a). The documents contain specifications, standards and general requirements applicable to shipboard radar equipment and shipboard radar installations. For purposes of this part, the specifications, standards and general requirements stated in these documents are mandatory irrespective of discretionary language. Radar documents are available for inspection at the Commission Headquarters in Washington, DC, or may be obtained from the Radio Technical Commission for Maritime Services (RTCM), P.O. Box 19087, Washington, DC 20036.

(1) Radar installed on ships of 500 gross tons and upwards on or after July 1, 1988, must comply with the provisions of RTCM Paper 133-87/SC 103-33 including Appendix A. Title: "RTCM Recommended Performance Specification for a General Purpose Navigational Radar Set for Oceangoing Ships of 500 Gross Tons and Upwards for New Radar Installations." Title of Appendix A: "General Purpose Shipborne Navigational Radar Set for Oceangoing Ships *Design and Testing Specifications.*" Document originally approved by RTCM August 15, 1985 and revised May 15, 1987.

(2) Radar installed on ships of 1,600 gross tons and upwards on or before April 27, 1981, must comply with the provisions of Volume II of RTCM Special Committee No. 65 Final Report; Part II. Title: "Performance Specification for a General Purpose Navigational Radar Set for Oceangoing Ships of 1,600 Tons Gross Tonnage and Upwards for Ships Already Fitted." Document approved by RTCM July 18, 1978; effective as FCC requirement on April 27, 1981.

(3) Radar installed on ships of 1,600 gross tons and upwards after April 27, 1981 and before July 1, 1988, must comply with the provisions of Volume II of RTCM Special Committee No. 65 Final Report with Change 1 entered; Part I including Appendix A. Title: "Performance Specification for a General Purpose Navigational Radar Set for Oceangoing Vessels of 1,600 Tons Gross Tonnage and Upwards for New Radar Installations." Title of Appendix A: "General Purpose Shipborne Navigational Radar Set for Oceangoing Ships *Design and Testing Specifications.*" Document approved by RTCM July 18, 1978; effective as FCC requirement on April 27, 1981.

(4) Ships between 500 and 1,600 gross tons constructed on or after September 1, 1984, with radar installed before July 1, 1988, must comply with Regulation 12, Chapter V of the Safety Convention and with the provisions of Inter-

Governmental Maritime Consultative Organization (IMCO) [Now International Maritime Organization (IMO)] Resolution A.477(XII). Title: "Performance Standards for Radar Equipment." Adopted by IMCO November 19, 1981.

(b) For ships of 10,000 gross tons or more and any other ship that is required to be equipped with two radar systems, each of these systems must be capable of operating independently and must comply with the specifications, standards and general requirements established by paragraph (a) of this section. One of the systems must provide a display with an effective diameter of not less than 340 millimeters (13.4 inches) (16-inch cathode ray tube). The other system must provide a display with an effective diameter of not less than 250 millimeters (9.8 inches) (12-inch cathode ray tube).

(c) Recommendations for tools, test equipment, spares and technical manuals are contained in Part IV of Volume III of the RTCM SC-65 Final Report approved by RTCM July 18, 1978.

Federal Communications Commission.

William J. Tricarico,

Secretary.

[FR Doc. 87-21420 Filed 9-17-87; 8:45 am]

BILLING CODE 6712-01-M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 20

Final Frameworks for Late Season Migratory Bird Hunting Regulations

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Final rule.

SUMMARY: This rule prescribes final late-season frameworks from which States may select season dates, limits and other options for the 1987-88 migratory bird hunting season. The earliest of these seasons generally commences on or about October 1, 1987, and include most of those for waterfowl.

The Service annually prescribes hunting regulations frameworks to the States. The effects of this final rule are to facilitate the selection of hunting seasons by the States and to further the establishment of the late-season migratory bird hunting regulations for 1987-88. State selections will be published in the **Federal Register** as amendments to §§ 20.104 through 20.107 and § 20.109 of Title 50 CFR Part 20.

EFFECTIVE DATE: This rule takes effect on September 18, 1987.

ADDRESSES: Send State season selections to: Director (FWS/MBMO), U.S. Fish and Wildlife Service, Department of the Interior, Matomic Building, Room 536, Washington, DC 20240. Comments received on the proposed late-season frameworks are available for public inspection during normal business hours in Room 536, Matomic Building, 1717 H Street, NW., Washington, DC.

FOR FURTHER INFORMATION CONTACT: Rollin D. Sparrowe, Chief, Office of Migratory Bird Management, U.S. Fish and Wildlife Service, Department of the Interior, Matomic Building, Room 536, Washington, DC 20240. Telephone (202) 254-3207.

SUPPLEMENTARY INFORMATION: The Migratory Bird Treaty Act of July 3, 1918 (40 Stat. 755; 16 U.S.C. 703 et seq.), as amended, authorizes and directs the Secretary of the Interior, having due regard for the zones of temperature and for the distribution, abundance, economic value, breeding habits, and times and lines of flight of migratory game birds, to determine when, to what extent, and by what means such birds or any part, nest or egg thereof may be taken, hunted, captured, killed, possessed, sold, purchased, shipped, carried, exported or transported.

On March 13, 1987, the U.S. Fish and Wildlife Service (hereinafter the Service) published for public comment in the **Federal Register** (52 FR 7900) proposals to amend 50 CFR Part 20, with comment periods ending June 18, July 14 and August 25, 1987, respectively, for the 1987-88 Alaska, Hawaii, Puerto Rico and Virgin Islands hunting seasons; other early hunting seasons; and the late hunting seasons frameworks. That document dealt with the establishment of hunting seasons, shooting hours, areas and limits for migratory game birds under §§ 20.101 through 20.107 and 20.109 of Subpart K. A supplemental proposed rulemaking for both the early- and late-season frameworks appeared in the **Federal Register** dated June 3, 1987 (52 FR 20757).

On July 2, 1987, the Service published for public comment in the **Federal Register** (52 FR 25170) a third document consisting of a proposed rulemaking dealing specifically with frameworks for early-season migratory bird hunting regulations. On August 3, 1987, the Service published in the **Federal Register** (52 FR 28717) a fourth document containing final frameworks for Alaska, Puerto Rico and the Virgin Islands. On August 6, 1987, the Service published in the **Federal Register** (52 FR 29187), a fifth document containing final frameworks for other early seasons for migratory bird hunting from which State wildlife conservation agency officials selected early-season hunting dates, hours, areas and limits for the 1987-88 season. On August 14, 1987 (52 FR 30395) a sixth document containing proposed frameworks for late season migratory bird hunting regulations was published. On August 24, 1987, the Service published in the **Federal Register** (52 FR 31773) a seventh document consisting of a final rule amending Subpart K of Title 50 CFR Part 20 to set hunting seasons, hours, areas and limits for mourning doves, white-winged and white-tipped doves, band-tailed pigeons, rails, woodcock, common snipe, and common moorhen and purple gallinules; September teal seasons; sea ducks in certain defined areas of the Atlantic Flyway; ducks in September in Florida, Iowa, Kentucky and Tennessee; Canada geese in September in portions of Illinois, Michigan and Minnesota; sandhill cranes in the Central and Pacific Flyways; sandhill cranes and Canada geese in southwestern Wyoming; migratory game birds in Alaska, Hawaii, Puerto Rico and the Virgin Islands; and extended falconry seasons. This document is the eighth in the series and establishes final frameworks for late-season migratory bird hunting regulations for the 1987-88 season.

Review of Public Comments and the Service's Response

Written Comments Received

In the **Federal Register** dated June 3, 1987, (52 FR 20757), the Service responded to comments received up to that time on proposed late season frameworks. Statements made at the public hearing on proposed late hunting season frameworks and written comments were summarized and responded to in the **Federal Register** dated August 14, 1987 (52 FR 30395). Since then additional written comments have been received. In several cases, more than one comment was received from the same respondent, and in some others views were offered on more than one regulatory subject. The new comments are summarized and responded to according to the numbered regulatory topics identified in the **Federal Register** dated March 13, 1987 (52 FR 7900).

2. Frameworks for ducks in the conterminous United States—outside dates, season length and bag limits.

a. The Director of the Oklahoma Department of Wildlife Conservation, by letter dated August 25, 1987, noted the

State's support for the cooperative establishment of waterfowl regulations; recalled the Central Flyway Council's disagreement with the Service regulatory response to reduced duck numbers in 1985, especially as related to the equitability of the regulatory changes between Flyways; reiterated concerns that the 1986 regulations continued disproportionally greater restrictions in the Central Flyway compared to other Flyways; restated the Central Flyway Council's recommendation that the 1987 regulations provide for increased harvest opportunity for drake mallards in the Flyway; and noted the initial support of this management strategy by Service representatives and the subsequent denial of said strategy by the Service in response to opposition to the strategy expressed by others, rather than an explained biological reason. The State noted concern with such an approach to regulations, asked how the Central Flyway drake mallard proposal would violate the Service's harvest strategy for mallards, and closed by identifying the restoration of biologically justified and equitable harvest opportunity and the maintenance of a strong supportive user base through a balanced cooperative regulatory process as essential to the recovery of healthy waterfowl populations.

Response: The Service appreciates Oklahoma's continued support of the cooperative regulations development process despite disagreement concerning the suitability and equitability of Central Flyway duck harvest opportunities during the last three regulations cycles. In the August 14, 1987, **Federal Register** (at 52 FR 30397) the Service acknowledged some differences in effects of restrictive regulations on harvest reduction in 1985 and 1986, but noted the continuing disagreement between the Central Flyway Council and Service concerning the effect of some regulations, including the applicability of sex-specific regulations under recent waterfowl population conditions. The Service believes the Central Flyway duck populations are derived from some of the more stressed duck breeding habitats in the central prairie-parklands, and therefore, supports a continued conservative approach to duck harvest opportunity. The Service feels that many questions concerning the role of regulations which target drake mallards are as yet unanswered, and that the answers may be less clear than some biologists believe. The Service has indicated an intent to participate in discussions of selected regulatory strategies at forthcoming flyway technical section meetings, and believes that highly technical issues should be reviewed in those forums, rather than in regulations meetings. The Service agrees with Oklahoma that regulations should be biologically justified, that harvest opportunities be tailored, to the extent possible, to unique Flyway conditions and that in the long run widespread user understanding and support is essential to the maintenance of healthy waterfowl populations and habitats.

b. In a letter dated August 20, 1987, the Florida Game and Fresh Water Fish Commission, endorsed the continuation of restrictive harvest regulations this year and urged that pintail harvest restrictions be increased in other flyways. In addition, the Commission expressed disappointment that the Service did not reduce point values on ring-necked ducks from 35 to 25. The State indicated it has the impression the Service believes the proposed point-value change is for the Atlantic and Mississippi Flyways. The State noted its proposal relates only to the Atlantic Flyway and cited point value differences for pintails between the Atlantic and Mississippi Flyways as cause to similarly set different point values for the ring-necked duck between flyways. Florida maintains that a proposed 25 point value is not a liberalization and has noted that the State could now elect conventional regulations which permit 4 ringnecks in the daily bag. The State believes a body of objective scientific data supports its position on the status of ringneck populations and reduced point values but that the Service continues to deny this change based on positions that are not supported by existing data.

Response: The Service appreciates Florida's support of conservative harvest regulations for the 1987–88 hunting season. Also, the Service supports the Atlantic Flyway's action to reduce pintail harvest, but, notes that breeding populations in 1987 were not dissimilar from 1986 and therefore additional restrictions were not imposed elsewhere. The Service will continue to monitor spring breeding populations of pintails and will consider additional restrictions in 1988 if needed.

Differences in point values by species occur between flyways where data are available to differentiate their population status. However, since limited population and land-recovery information are available for ringneck populations in eastern Canada and the northeast U.S., existing data seem insufficient to justify different point values in the Mississippi and Atlantic Flyways. Further, it is unlikely the Service could grant a lower point value for ringnecks in Florida without considering a similar request from Mississippi Flyway States. The end result could well be a substantial increase in harvest opportunity for ring-necked ducks. It should also be realized that the effects of converting to a 4-bird conventional bag (which permits 4 ringnecks) is not the same as granting a 25 point category for a species. The first may be viewed as a more restrictive change while the second is viewed as a liberalization. Breeding population information derived from surveyed areas is available only for the northcentral region. The population information referenced by Florida was estimated from age ratios and band recovery data from the 1970s and may not accurately characterize recent population status. Thus, there is limited data for those populations of ring-necked ducks important to the harvest in the Atlantic Flyway which can be used to support changes in point values. It is noted that the Mississippi Flyway Council and Ontario have not supported the Atlantic Flyway Council's request for a reduced point value for ringnecks in Florida. In summary, the Service continues to believe a conservative approach to management of harvest opportunities for ring-necked ducks is warranted and, therefore, the point value for ringnecks should remain at 35 points.

c. A Florida resident expressed concern that the proposed point value for pintails in the Atlantic Flyway (i.e., 100 points) is too restrictive, and suggested a point value for pintails be established that allows 2 birds in the daily bag.

Response: The Service appreciates the Florida individual's concern, but notes that the 100-point value for pintails was proposed by the Service in support of action recommended by the Atlantic Flyway Council.

d. In a letter, the Finger Lakes and Western New York Waterfowl Association (Association) questioned the appropriateness of mallard harvest restrictions imposed in the Atlantic Flyway since 1985 and asked that either the hen mallard restriction be dropped or that the mallard bag be increased to four. They expressed dissatisfaction with similar regulatory frameworks in the Mississippi and Atlantic Flyways when the Atlantic Flyway derives little of its mallard harvest from the surveyed areas. They estimated that these restrictions saved only 13,000 prairie mallards yearly which migrate into the

Atlantic Flyway, but more than 290,000 prairie mallards in the Mississippi Flyway. In addition, they asserted that winter inventory information is unreliable and cannot be used to justify restrictions but suggested that increased mallard availabilities and high productivity in Ontario have offset high recovery rates and justify more liberal regulations. Also, they questioned the effectiveness of hen mallard restrictions when data from the Stabilized Regulations Report suggest hunting mortality is compensatory with heavy predation on hens during nesting.

Response: The Service responded in detail to similar comments raised by the Association concerning mallard restrictions in the Atlantic Flyway and relationship to the Mississippi Flyway in the **Federal Register** published September 12, 1986 (see 51 FR 32463). In each flyway, harvest restrictions were designed to reduce harvest by a similar percentage. Total reductions by flyway will vary based on population size. While winter inventories cannot be used to estimate population size or measure year to year changes, results from this survey are valid to evaluate long-term trends. Presently, information to document breeding populations and annual productivity from outside the surveyed area (eastern Canada and N.E. United States) is not sufficiently well developed to be used to formulate harvest management strategies. The Service, in cooperation with the Atlantic Flyway Council, has expressed the need to improve the waterfowl data base for areas currently outside the surveyed areas.

Information published in the Stabilized Regulations Report, which failed to show an inverse relationship between survival and recovery rate, does not confirm that hunting mortality is compensatory with other mortality. While our knowledge of the effects of hunting mortality on various components of the mallard population has been greatly improved by examination of seasonal mortality, the relationship between harvest of females during the hunting season and subsequent losses during the breeding season is far from clear. However, since female survival is a critical factor to maintain or rebuild mallard populations, the Service believes that a conservative harvest strategy designed to protect females is prudent.

e. An individual from Massachusetts suggested that mallard bag-limit frameworks be at least 3-daily and there be no additional restrictions on mallard hens, because he felt that mallards harvested in Massachusetts are primarily birds derived from New England States. In addition, the individual believes hunters will react more favorably to restrictions on black duck harvest if liberal mallard limits are available.

Response: The Service recognizes the fact that many mallards using the Atlantic Flyway may be distinct from those annually inventoried in the survey areas. However, until population information can be gathered to document their status, the Service believes harvest management strategies for mallards should be conservative and that hen restrictions are justified. The impact of mallard restrictions, including only one hen in the daily bag, on black ducks cannot be fully assessed. Since the harvest on mallards in New England is small and few complete daily bag limits of mallards are reported, impacts to black ducks should be small.

3. American black ducks

The Humane Society of the United States, in a letter dated August 24, 1987, commented that the current black duck harvest reduction program has not been effective in restoring the black duck population and urged the season be closed in 1987. They suggested that reductions in total kill of black ducks likely reflects the continuing decline in the population. Further, they believe that apparent reductions in the kill rate for U.S. banded black ducks, even if real, would cause only insignificant changes in black duck populations as a whole.

Response: Preliminary information obtained from a review of the harvest restrictions imposed in the Atlantic and Mississippi Flyways since 1983 has shown a reduction in harvest of black ducks and a lowering of the kill rate. Presently, no trend is evident from the population information. However, many factors other than harvest may be operating to limit population recovery. The Service will continue current harvest strategies during the 1987–88 hunting season but plans to review existing data and to consider alternative harvest strategies for the 1988–89 season.

4. Wood ducks

a. An Oregon resident questioned the rationale used to increase the bag limit of wood ducks to that for ducks in general, and requested that wood ducks not be hunted in the Pacific Flyway until certain data and information were made available to prove that the population was not in jeopardy. He noted an absence of adequate census and banding data, the limited and much reduced habitat of the species, the fact that other species have been forced into favored wood duck habitats increasing competition, that hunting near roost sites has potential for stressing ducks, that hunting wooded habitats has potential for increased crippling rates, and that dump nests were erroneously interpreted as overpopulation and used to justify the increased limits.

Response: The increase in the bag limit on wood ducks in the Pacific Flyway referred to by the commentor occurred 20 years ago. During 1962–66, the bag limit was 2 wood ducks; but since 1967 the bag limit has been same as the basic limit on ducks which has ranged from 5 to 7. Idaho, in five northern counties, further limits wood ducks to 2 per day. The limit has been 5 in the flyway since 1985. The average harvest has been similar since the increase in the bag limit in the early 1960s. The Service has neither direct nor indirect evidence to suggest that the Pacific Flyway population of wood ducks is in jeopardy or that losses of their breeding habitats is any greater than for other kinds of waterfowl. The Service is considering a joint study with the California Department of Fish and Game to better protect important waterfowl habitats along the Sacramento River, an area of considerable importance to wintering wood ducks.

12. Canvasbacks and redhead ducks

a. The National Wildlife Federation (Federation) expressed support of the Service's proposal to continue the canvasback (Eastern Population) hunting closure in the three eastern flyways. With respect to the Western Population of canvasbacks, the Federation expressed support for the proposed canvasback season frameworks for the Pacific Flyway, but cautioned that in light of the current status of that population, the Service must be prepared to stop the harvest of Western Population canvasbacks if its 1988 breeding population index falls below the minimum threshold.

Response: The Service notes the Federation's support of the regulations frameworks for hunting canvasbacks. When the 1988 canvasback breeding population survey data and the harvest data from the 1987–88 hunting season become available, the Service, in coordination with the flyway councils, will review whether changes are needed in the 1988–89 regulations frameworks for the Western and Eastern Population of canvasbacks.

14. Frameworks for geese and brant in the conterminous U.S.—outside dates, season length and bag limits

Atlantic Flyway

a. In a letter from the Massachusetts Division of Fisheries and Wildlife, the State expressed opposition to limiting the experimental special resident Canada goose season to its Costal Zone. The State believes that this special should be held statewide since criteria based on neck-collar observations were collected in all areas of the State and were below the 20% level allowed. Further, Massachusetts indicated that concern for migratory populations is misplaced because banding data exist that show some geese breeding in the Canadian Maritimes may winter along coastal Massachusetts, particularly the outer Cape Cod area. Although some information suggests that a majority of the resident geese move to the coast in late winter, other geese simply shift to major rivers during severe weather. Thus, a statewide resident Canada goose season would be more effective to control resident numbers without increasing risk to migrant populations.

Response: The Service has reviewed the information presented in Massachusetts' proposal for a resident Canada goose season, but, with less than two years of neck-collar observations, the Service intends to initiate a special season on a limited basis. Since few wintering Canada geese have been banded or neck-collared in Massachusetts in past years, little information exists to identify breeding origins of these birds. Observations of neck-collared Canada geese from neighboring Connecticut have shown migrants to be present during late-January and early-February. Thus, the Service believes a conservative approach that allows the gathering of additional information before expanding this season statewise is warranted.

b. An individual from Massachusetts urged that the proposed special resident Canada goose season in Massachusetts be permitted statewide rather than limited to the State's Coastal Zone in order to provide sufficient reduction of the resident Canada goose population.

Response: See the Service's response to 14a above.

c. Two Massachusetts residents submitted objections to the proposed special resident Canada goose season in the State. One resident specifically referred to the lack of two years information during consideration of the special season.

Response: The Service acknowledges the individuals' objections, but believes the special season is warranted and notes that a conservative approach is being taken in that the season is restricted to the State's Coastal Zone. In regard to the question of data see the Service's response to 14a above.

Mississippi Flyway

a. Illinois has requested that the bag limit framework for Canada geese in the State's Rend Lake Quota Zone be increased to 2 geese daily because the harvest of Canada geese in the zone is closely monitored and a 1-goose daily bag limit is overly restrictive.

Response: In recent years Illinois demonstrated that its quota zone monitoring system provides effective control of the Canada goose harvest within its quota zones; therefore, the Service concurs with the request.

b. In the August 14, 1987, **Federal Register** (52 FR 30400) the Service noted that because of recently expressed concern about the status of the Tennessee Valley Population (TVP) of Canada geese with migrates through portions of the Mississippi Flyway to wintering areas in North and South Carolina, Ohio's request to relax Canada goose harvest restrictions (which had been imposed at State request in all or parts of 4 counties to protect small flocks of giant Canada geese) should be deferred until the potential impact of the requested change on TVP Canada geese can be assessed. In a letter dated August 15, 1987, Ohio reiterated its request and indicated that the requested change might produce, at most, a harvest increase of 20 percent in the eastern part of the requested change area and would not increase the harvest in the western part of the area.

Response: Based on the Service's harvest survey, the estimated harvest of Canada geese in the 4-county area averaged approximately 4,300 birds annually during 1977–86, about one-third of the statewide Canada goose harvest. Data submitted by the State in its comment suggest that perhaps about half of these birds were migrant geese from the Tennessee Valley Population (TVP).

Although Ohio included in its comment information suggesting that the impact on TVP geese of increasing the bag limit in the above areas may not be significant, the Service feels that the restriction should be retained in 1987, and requests that the State collect additional data during the 1987 hunting season, such as neck-collar observations, measurements of harvested geese, etc., for consideration during the establishment of regulations for the 1988 hunting season.

c. Michigan has requested the following regulations frameworks for hunting Canada geese in the State:

i. In the State's North Zone (i.e., Upper Peninsula) a September 26 opening date; establishment of a 4-county quota zone (Ontonagon, Baraga, Houghton and Marquette Counties) with a quota of 6,500 Canada geese, a 20-day season and daily bag limit of 2 geese; throughout the remainder of the Upper Peninsula a 40-day Canada goose season with a daily bag limit of 2 geese.

Response: The establishment of a quota zone and 20-day season in the major goose harvest counties should provide acceptable control of the Canada goose harvest in the Upper Peninsula despite the liberalized season and bag in the nonquota area. The Service believes the 10% increase in the harvest objective for Mississippi Valley Population Canada geese will allow Michigan to remain within State harvest objectives despite increased season length and bag limits in several goose zones.

ii. In the State's Middle Zone, a 40-day Canada goose season with a daily bag limit of 2 geese.

Response: The Service accepts the State's position that harvest will increase only slightly in the Middle Zone despite the 10-day increase in season length and one additional goose per day in the bag.

iii. In the State's South Zone west of Highways 27 and 127, a 40-day Canada goose season with a daily bag limit of 1 goose, and no change in the Allegan County Quota Zone.

Response: The South Zone (west) contains the Allegan County and Muskegon Wastewater Goose Management Area quota zones. The combination of quota areas, increasing numbers of giant Canada geese and an increased State harvest objective for Canada geese should combine to limit the harvest of migrant geese to acceptable levels in the South Zone (west) despite the increase in season length.

iv. In the State's South Zone east of Highways 27 and 127, a 40-day Canada goose season with a daily bag limit of 2 geese, and a reduction in the Saginaw County Goose Management Area quota from 5,000 Canada geese to 4,500.

Response: The Service notes that the season length and bag limit frameworks requested by the State reflect those proposed by the Service in the August 14, 1987, **Federal Register** (52 FR 30406). The final frameworks established herein include the reduction in the Canada goose harvest quota for the Saginaw County Goose Management Area. The

State proposed the reduction in recognition of concerns by the Service and the Atlantic Flyway Council over the status of Tennessee Valley Population Canada geese.

v. In the State's Southern Michigan Goose Management Area, a special late-season for Canada geese of only 30 days (between January 9 and February 7) with a daily bag limit of 2 geese, and a simplification of the area boundary by expanding it to follow Highways M–45, M–21 and Interstate 69.

Response: The Service concurs with the requested changes. The later, shorter special season should reduce the proportion of migrant geese in the special-season harvest, which has been unacceptably high in some past years.

Pacific Flyway

a. The National Wildlife Federation reiterated its support for restrictive seasons and hunting closures to assist the recovery of cackling Canada geese, Pacific white-fronted geese, black brant and emperor geese.

Response: As noted in the August 14, 1987, **Federal Register** (52 FR 30399), the Service believes the proposed season frameworks on geese and brant are in keeping with management guidelines and are appropriate to rebuilding those populations that have declined.

15. Tundra swans

a. The National Wildlife Federation urged that the experimental tundra swan hunting season in North Carolina become an operational part of the annual regulations development process.

Response: The Service proposes to continue North Carolina's tundra swan hunting season on an experimental basis while the "hunt plan" to coordinate the sport harvest of Eastern Population tundra swans among the four waterfowl flyways is being completed. In addition, the Service notes that only 2 years of North Carolina's 3-year experimental season were conducted at the 6,000-permits level, therefore, continuing the season experimental in 1987–88 will allow for the collection of a third year of hunting season data at that permit level.

b. Twenty additional comments have been received from individuals expressing their support of and 1 individual expressed opposition to a tundra swan hunting season in New Jersey.

Response: The "hunt plan" to coordinate the sport harvest of Eastern Population tundra swans among the four waterfowl flyways has not been completed; therefore, the Service is not proposing the experimental season in New Jersey.

Nontoxic Shot Regulations

In the July 21, 1987, **Federal Register** (52 FR 27352), the Service published a final rule describing areas in which lead shot is prohibited for hunting waterfowl, coots and certain other species in the 1987–88 hunting seasons.

Waterfowl hunters are advised to become familiar with State and local regulations regarding the use of nontoxic shot for waterfowl hunting. Attention is also directed to the January 15 and July 21, 1987 **Federal Register** (52 FR 1638 and 27363, respectively), which gave notice if States do not approve nontoxic shot zones when current Service guidelines and criteria indicate such zones are necessary to protect migratory birds, the Secretary of the Interior, acting through the Service, will not open those areas to waterfowl and coot hunting.

NEPA Consideration

The "Final Environmental Statement for the Issuance of Annual Regulations Permitting the Sport Hunting of Migratory Birds (FES 75–54)" was filed with the Council of Environmental Quality on June 6, 1975, and notice of availability was published in the **Federal Register** on June 13, 1975, (40 FR 25241). In addition, several environmental assessments have been prepared on specific matters which serve to supplement the material in the Final Environmental Statement. Copies of the environmental assessments are available from the Service at the address indicated under the caption **ADDRESS.** As noted in the March 13, 1987, **Federal Register** (52 FR 7905), the Service is preparing a Supplemental Environmental Impact Statement (SEIS) on the FES. The Service indicated a mid-July 1987 publication date for a draft SEIS to be followed by public meetings prior to preparation of the final SEIS was anticipated; however, it is now unlikely that the draft SEIS will be available before early September.

Endangered Species Act Consideration

Section 7 of the Endangered Species Act provides that, "The Secretary shall review other programs administered by him and utilize such programs in furtherance of the purposes of this Act" [and shall] "insure that any action authorized, funded, or carried out . . . is not likely to jeopardize the continued existence of such endangered or threatened species or result in the destruction or adverse modification of [critical] habitat . . ." The Service therefore initiated section 7 consultation under the Endangered Species Act for the proposed hunting season frameworks.

On June 15, 1987, the Office of Endangered Species gave a biological opinion that the proposed action was not likely to jeopardize the continued existence of listed species or result in the destruction or adverse modification of their critical habitats.

As in the past, hunting regulations this year are designed, among other things, to remove or alleviate chances of conflict between seasons for migratory game birds and the protection and conservation of endangered and threatened species.

The Service's biological opinion resulting from its consultation under section 7 is considered a public document and is available for public inspection in or available from the Office of Endangered Species and the Office of Migratory Bird Management, Department of the Interior, Washington, DC.

Regulatory Flexibility Act, Executive Order 12291 and the Paperwork Reduction Act

In the **Federal Register** dated March 13, 1987, (52 FR 7900), the Service reported measures it had undertaken to comply with requirements of the Regulatory Flexibility Act and the Executive Order. These included preparing a Determination of Effects and an updated Final Regulatory Impact Analysis, and publication of a summary of the latter. These regulations have been determined to be major under Executive Order 12291 and they have a significant economic impact on substantial numbers of small entities under the Regulatory Flexibility Act. This determination is detailed in the aforementioned documents which are available upon request from the Office of Migratory Bird Management, U.S. Fish and Wildlife Service, Department of the Interior, Matomic Building, Room 536, Washington, DC 20240. These final regulations contain no information collections subject to Office of Management and Budget review under the Paperwork Reduction Act.

Memorandum of Law

The Service published its Memorandum of Law, required by section 4 of Executive Order 12291, in the **Federal Register** dated August 3, 1987 (52 FR 28717).

Authorship

The primary author of this final rule is Morton M. Smith, Office of Migratory Bird Management, working under the direction of Rollin D. Sparrowe, Chief.

Regulations Promulgation

The rulemaking process for migratory bird hunting must, by its nature, operate under severe time constraints. However, the Service is of the view that every attempt should be made to give the public the greatest possible opportunity to comment on the regulations. Thus, when the proposed late hunting season rulemakings were published on March 13, June 3, and August 14, 1987, the Service established what it believed were the longest periods possible for public comment. In doing this, the Service recognized that at the close of each period time would be of the essence. That is, if there were a delay in the effective date of these regulations after this final rulemaking, the Service is of the opinion that the States would have insufficient time to select season dates, shooting hours and limits; to communicate those selections to the Service; and to establish and publicize the necessary regulations and procedures that implement their decisions.

Therefore, the Service, under authority of the Migratory Bird Treaty Act of July 3, 1918, as amended, (40 Stat. 755; 16 U.S.C. 703 et seq.), prescribes final frameworks setting forth the species to be hunted, the daily bag and possession limits, the shooting hours, the season lengths, the earliest opening and latest closing season dates, and hunting areas, from which State conservation agency officials may select hunting season dates and other options. Upon receipt of season and option selections from State officials, the Service will publish in the **Federal Register** a final rulemaking amending 50 CFR Part 20 (§§ 20.104 through 20.107 and § 10.109) to reflect seasons, limits and shooting hours for the conterminous United States for the 1987–88 season.

The Service therefore finds that "good cause" exists, within the terms of 5 U.S.C. 553(d)(3) of the Administrative Procedure Act, and these frameworks will, therefore, take effect immediately upon publication.

List of Subjects in 50 CFR Part 20

Exports, Hunting, Imports, Transportation, Wildlife.

The rules that eventually will be promulgated for the 1987–88 hunting season are authorized under the Migratory Bird Treaty Act of July 3, 1918, (40 Stat. 755; 16 U.S.C. 701–708h); the Fish and Wildlife Improvement Act of 1978 (92 Stat. 3112; 16 U.S.C. 712); and the Alaska Game Act of 1925 (43 Stat. 739; as amended, 54 Stat. 1103–04).

Final Regulations Frameworks for 1987–88 Late Hunting Seasons on Certain Migratory Game Birds

Pursuant to the Migratory Bird Treaty Act, the Secretary of the Interior has approved final frameworks for season lengths, shooting hours, bag and possession limits and outside dates within which States may select seasons for hunting waterfowl and coots. Frameworks are summarized below.

General

Split Season: States in all Flyways may split their season for ducks, geese or brant into two segments. States in the Atlantic and Central Flyways may, in lieu of zoning, split their season for ducks or geese into three segments. Exceptions are noted in appropriate sections.

Shooting Hours: From one-half hour before sunrise to sunset daily, for all species and seasons, including falconry seasons.

Extra Teal: States in the Mississippi and Central Flyways selecting neither a teal or early duck season in September nor the point system may select an extra daily bag and possession limit of 2 and 4 blue-winged teal, respectively, for 9 consecutive days designated during the regular duck season. States in the Atlantic Flyway (except Florida) not selecting the point system may select an extra teal limit of no more than 2 blue-winged teal or 2 green-winged teal or 1 of each daily and no more than 4 singly or in the aggregate in possession for 9 consecutive days during the regular duck season. These extra limits are in addition to the regular duck bag and possession limits.

Special Scaup-only Season: States in the Atlantic, Mississippi and Central Flyways may select a special scaup-only hunting season not to exceed 16 consecutive days, with daily bag and possession limits of 5 and 10 scaup, respectively, subject to the following conditions:

1. The season must fall between October 1, 1987, and January 31, 1988, in the Atlantic Flyway and October 3, 1987, and January 31, 1988, in the Mississippi and Central Flyways, all dates are inclusive.

2. The season must fall outside the open season for any other ducks except sea ducks.

3. The season must be limited to areas mutually agreed upon by the State and the Service prior to August 31, 1987.

4. These areas must be described and delineated in State hunting regulations.

Or

Extra Scaup: As an alternative, States in the Atlantic, Mississippi and Central Flyways, except those selecting the point system, may select an extra daily bag and possession limit of 2 and 4 scaup, respectively, during the regular duck hunting season, subject to conditions 3 and 4 listed above. These extra limits are in addition to the regular duck limits and apply during the entire regular duck season.

Point System: Selection of the point system for any State entirely within a flyway must be on a statewide basis, *except* if New York selects the point system, conventional regulations may be retained for the Long Island Area. New York may not select the point system within the Upstate zoning option, and Massachusetts, Pennsylvania and Vermont may not select the point system pending completion of zoning studies.

Deferred Season Selections: States that did not select rail, woodcock, snipe, sandhill cranes, common moorhens and purple gallinules and sea duck seasons in July should do so at the time they make their waterfowl selections.

Frameworks for open seasons and season lengths, bag and possession limit options, and other special provisions are listed below by Flyway.

Atlantic Flyway

The Atlantic Flyway includes Connecticut, Delaware, Florida, Georgia, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, North Carolina, Pennsylvania, Rhode Island, South Carolina, Vermont, Virginia and West Virginia.

Ducks, Coots and Mergansers

Hunting Seasons and Duck Limits

Outside Dates: Between October 1, 1987, and January 18, 1988.

Hunting Season: Not more than 40 days.

Duck Limits: The daily bag limit of ducks is 4 and may include no more than 3 mallards (only 1 may be a hen), 1 pintail, 2 wood ducks, 1 black duck and 1 fulvous tree duck. The possession limit is 8, including no more than 6 mallards, (no more than 2 of which may be a female), 2 black ducks, 2 pintails, 4 wood ducks, and 2 fulvous tree ducks (except as noted below). The limit of redheads is 2 daily and 4 in possession. The season is closed to the taking of canvasbacks.

Point System Options: As an alternative to conventional bag limits for ducks, a 40-day season with a point-system bag limit may be selected by

Atlantic Flyway States during the framework dates prescribed. Point values for species and sexes taken are as follow: in Florida only, the fulvous tree duck counts 100 points each; the female mallard, black duck, mottled duck (except South Carolina) and pintail count 100 points each. Wood duck (except in Virginia, North Carolina, South Carolina and Georgia during the early wood duck season option), redhead and hooded merganser count 70 points each; scaup, blue-winged teal, green-winged teal, sea ducks, wigeon, shoveler, gadwall, and merganser (except hooded) count 20 points each; the wood duck during the early wood duck season option in Virginia, North Carolina, South Carolina and Georgia counts 25 points each; the male mallard, ring-necked duck, goldeneye, bufflehead and all other ducks count 35 points each. The daily bag limit is reached when the point value of the last bird taken, added to the sum of the point values of the other birds already taken during that day, reaches or exceeds 100 points. The possession limit is the maximum number of birds which legally could have been taken in two days.

Canvasbacks: All areas of the Flyway are closed to canvasback hunting.

Merganser Limits: Throughout the Flyway the daily bag limit of mergansers is 5, only 1 of which may be a hooded merganser. The possession limit is 10, only 2 of which may be hooded mergansers.

Coot Limits: Throughout the Flyway daily bag and possession limits of coots are 15 and 30, respectively.

Early Wood Duck Season Option: Virginia, North Carolina, South Carolina and Georgia may split their regular hunting season so that a hunting season not to exceed 9 consecutive days occurs between October 1 and October 15. During this period under conventional regulations, no special restrictions within the regular daily bag and possession limits established for the Flyway shall apply to wood ducks. Under the point system, wood ducks shall be 25 points. For other ducks, daily bag and possession limits shall be the same as established for the Flyway under conventional or point system regulations. For those States using conventional regulations, the extra teal option may be selected concurrent with the early wood duck season option. This exception to the daily bag and possession limits of wood ducks shall not apply to that portion of the duck hunting season that occurs after October 15.

Restrictions on Wood Ducks: Under conventional and point system options, the daily bag and possession limits may not include more than 2 and 4 wood ducks, respectively.

Restriction on Mottled Ducks: The season is closed to the taking of mottled ducks in South Carolina.

Special Scaup and Goldeneye Season: In lieu of a special scaup season, Vermont may, for the Lake Champlain Zone, select a special scaup and goldeneye season not to exceed 16 consecutive days, with a daily bag limit of 3 scaup or 3 goldeneye or 3 in the aggregate, and a possession limit of 6 scaup or 6 goldeneyes or 6 in the aggregate, subject to the same provisions that apply to the special scaup season elsewhere.

Zoning

New York: New York may, for Long Island Zone, select season dates and daily bag and possession limits which differ from those in the remainder of the State.

Upstate New York (excluding the Lake Champlain zone) may be divided into three zones (West, North, South) for the purpose of setting separate duck, coot and merganser seasons. Only conventional regulations may be selected. A 2-segment split season may be selected in each zone. Teal and scaup bonus options shall be applicable, but the 16-day special scaup season will not be allowed.

The West Zone is that portion of Upstate New York lying west of a line commencing at the north shore of the Salmon River and its junction with Lake Ontario and extending easterly along the north shore of the Salmon River to its intersection with Interstate Highway 81, then southerly along Interstate Highway 81 to the Pennsylvania border.

The North and South Zones are bordered on the west by the boundary described above and are separated from each other as follows: Starting at the intersection of Interstate Highway 81 and State Route 49 and extending easterly along State Route 49 to its junction with State Route 365 at Rome, then easterly along State Route 365 to its junction with State Route 28 at Trenton, then easterly along State Route 28 to its junction with State Route 29 at Middleville, then easterly along State Route 29 to its intersection with Interstate Highway 87 at Saratoga Springs, then northerly along Interstate Highway 87 to its junction with State Route 9, then northerly along State Route 9 to its junction with State Route 149, then easterly along State Route 149 to its junction with State Route 4 at Fort Ann, then northerly along State Route 4 to its intersection with the New York/Vermont boundary.

Connecticut: Connecticut may be divided into two zones as follows:

a. North Zone—That portion of the State north of Interstate 95.

b. South Zone—That portion of the State south of Interstate 95.

Maine: Maine may be divided into two zones as follows:

a. North Zone—Game Management Zones 1 through 5.

b. South Zone—Game Management Zones 6 through 8.

New Hampshire: Coastal Zone—That portion of the State east of a boundary formed by State Highway 4 beginning at the Maine-New Hampshire line in Rollinsford west to the city of Dover, south to the intersection of State Highway 108, south along State Highway 108 through Madbury, Durham and Newmarket to the junction of State Highway 85 in Newfields, south to State Highway 101 in Exeter, east to State Highway 51 (Exeter-Hampton Expressway), east to Interstate 95 (New Hampshire Turnpike) in Hampton, and south along Interstate 95 to the Massachusetts line.

Inland Zone—That portion of the State north and west of the above boundary.

West Virginia: West Virginia may be divided into two zones as follows:

a. Allegheny Mountain Upland Zone—The eastern boundary extends south along U.S. Route 220 through Keyser, West Virginia, to the intersection of U.S. Route 50; follows U.S. Route 50 to the intersection with State Route 93; follows State Route 93 south to the intersection with State Route 42 and continues south on State Route 42 to Petersburg; follows State Route 28 south to Minnehaha Springs; then follows State Route 39 west to U.S. Route 219; and follows U.S. Route 219 south to the intersection of Interstate 64. The southern boundary follows I–64 west to the intersection with U.S. Route 60, and follows Route 60 west to the intersection of U.S. Route 19. The western boundary follows: Route 19 north to the intersection of I–79, and follows I–79 north to the intersection of U.S. Route 48. The northern boundary follows U.S. Route 48 east to the Maryland State line and the State line to the point of beginning.

b. Remainder of the State—That portion outside the above boundaries.

Zoning Experiments

Vermont will continue a Lake Champlain Zone in 1987. The Lake Champlain Zone of New York must follow the waterfowl season, daily bag and possession limits, and shooting hours selected by Vermont. Massachusetts, New Jersey, and

Pennsylvania, may continue zoning experiments now in progress as shown in the sections that follow. Massachusetts and New Jersey may be divided into three zones, Pennsylvania into four zones and Vermont into two zones all on an experimental basis for the purpose of setting separate duck, coot and merganser seasons. Only conventional regulations may be selected in Massachusetts, Pennsylvania and Vermont. A two-segment split season without penalty may be selected. The basic daily bag limit of ducks in each zone and the restrictions applicable to the regular season for the Flyway also apply. Teal and scaup bonus bird options, and the 16-day special scaup season shall be allowed.

Zone Definitions

Massachusetts: Western Zone—That portion of the State west of a line extending from the Vermont line at Interstate 91, south to Route 9, west on Route 9 to Route 10, south on Route 10 to Route 202, south on Route 202 to the Connecticut line.

Central Zone—That portion of the State east of the Western Zone and west of a line extending from the New Hampshire line at Interstate 95 south to Route 1, south on Route 1 to I–93, south on I–93 to Route 3, south on Route 3 to Route 6, west on Route 6 to Route 28, west on Route 28 to I–195, west to the Rhode Island line, EXCEPT the waters, and the lands 150 yards along the high-water mark, of the Assonit River to the Route 24 bridge, and the Taunton River to the Center St.-Elm St. bridge shall be in the Coastal Zone.

Coastal Zone—That portion of the State east and south of the Central Zone.

New Jersey: Coastal Zone—That portion of New Jersey seaward of a continuous line beginning at the New York State boundary line in Raritan Bay; then west along the New York boundary line to its intersection with Route 440 at Perth Amboy; then west on Route 440 to its intersection with the Garden State Parkway; then south on the Garden State Parkway to the shoreline at Cape May and continuing to the Delaware boundary in Delaware Bay.

North Zone—That portion of New Jersey west of the Coastal Zone and north of a boundary formed by Route 70 beginning at the Garden State Parkway west to the New Jersey Turnpike, north on the turnpike to Route 206, north on Route 206 to Route 1, Trenton, west on Route 1 to the Pennsylvania State boundary in the Delaware River.

South Zone—That portion of New Jersey not within the North Zone or the Coastal Zone.

Pennsylvania: Lake Erie Zone—The Lake Erie waters of Pennsylvania and a shoreline margin along Lake Erie from New York on the east to Ohio on the west extending 150 yards inland, but including all of Presque Isle Peninsula.

North Zone—That portion of the State north of I–80 from the New Jersey State line west to the junction of State Route 147; then north on State Route 147 to the junction of Route 220, then west and/or south on Route 220 to the junction of I–80, then west on I–80 to its junctions with the Allegheny River, and then north along but not including the Allegheny River to the New York border.

Northwest Zone—That portion of the State bounded on the north by the Lake Erie Zone and the New York line, on the east by and including the Allegheny River, on the South by Interstate Highway I–80, and on the west by the Ohio line.

South Zone—The remaining portion of the State.

Vermont: Lake Champlain Zone—Includes the United States portion of Lake Champlain and those portions of New York and Vermont which includes that part of New York lying east and north of boundary running south from the Canadian border along New York Route 9B to New York Route 9 south of Champlain, New York; New York Route 9 to New York Route 22 south of Keeseville; along New York Route 22 to South Bay, along and around the shoreline of South Bay to New York Route 22; along New York Route 22 to U.S. Highway 4 at Whitehall; and along U.S. Highway 4 to the Vermont border. From the New York border at U.S. Highway 4, along U.S. Highway 4 to Vermont Route 22A at Fair Haven; Route 22A to U.S. Highway 7 at Vergennes; U.S. Highway 7 to the Canadian border.

Interior Vermont Zone—The remaining portion of the State.

Sea Ducks

The daily bag and possession limit for sea ducks in special sea duck areas is in addition to the limits applying to other ducks during the regular duck season. In all areas outside of special sea duck areas, sea ducks are included in the regular duck season conventional or point sytem daily bag and possession limits.

Canada Geese

Outside Dates, Season Lengths, and Limits: Between October 1, 1987, and January 20, 1988 Maine, New Hampshire, Vermont, Massachusetts, Pennsylvania, West Virginia, Maryland and Virginia (excluding those portions of the cities of Virginia Beach and Chesapeake lying east of Interstate 64 and U.S. Highway 17) may select 70-day seasons for Canada geese. The daily bag and possession limits are 3 and 6 geese, respectively, except in Pennsylvania Counties of Erie, Mercer, Butler, and Crawford where the daily bag and possession limits are 1 and 2, respectively. In New York (including Long Island), Rhode Island, Connecticut, (North Zone only) New Jersey, Delaware, the Delmarva Peninsula portions of Maryland and Virginia, and that potion of Pennsylvania lying east and south of a boundary beginning at Interstate Highway 83 at the Maryland border and extending north to Harrisburg, then east on I–81 to Route 443, east on 443 to Leighton, then east via 208 to Stroudsburg, then east on I–80 to the New Jersey line, the Canada goose season length may be 90 days with the closing framework date extended to January 31, 1988. In addition, that portion of the Susquehanna River from Harrisburg north to the confluence of the west and north branches at Northumberland, including a 25-yard zone of land adjacent to the waters of the river, is included in the 90-day zone. the daily bag limit within this area (except New York, Rhode Island, and Connecticut) will be 4 birds with the possession limit of 8 birds. The daily bag and possession limits in New York, Rhode Island, and Connecticut (North Zone) will be 3 and 6, respectively. In the South Zone of Connecticut (that portion south of Interstate 95) the Canada goose season length may be 90 days with the closing framework date extended to February 5, 1988. The daily bag limit and possession limit will be 3 and 6, respectively, through January 14 and 5 and 10, respectively from January 15 to February 5, 1988. This season in the South Zone of Connecticut is experimental. Those portions of the cities of Virginia Beach and Chesapeake lying east of Interstate 64 and U.S. Highway 17 in Virginia may select a 50-day season for Canada geese within the October 1, 1987, to January 20, 1988, framework; the daily bag and possession limits are 2 and 4 Canada geese, respectively. North Carolina and South Carolina may select a 43-day season for Canada geese within a December 20, 1987, to January 31, 1988, framework; the daily bag and possession limits are 1 and 2 Canada geese, respectively. In the Coatal Zone of Massachusetts, a special resident Canada goose season may be held within January 21, 1987, to February 5, 1988; the daily bag and possession limits are 5 and 10, respectively.

Closures on Canada geese: The season for Canada geese is closed in Flordia and Georgia.

Snow Geese

Outside Dates, Season Lengths, and Limits: Between October 1, 1987, and January 31, 1988, States in the Atlantic Flyway may select a 90/day season for snow geese (including blue geese); the daily bag and possession limis are 4 and 8, respectively.

Atlantic Brant

Outside Dates, Seasn Lengths, and Limits; Between October 1, 1987, and January 20, 1988, States in the Atlantic Flyway may select a 30-day season for Atlantic brant; the daily bag and possession limits are 2 and 4 brant, respectively.

Tundra Swans

In North Carolina an experimental season for tundra swans may be selected subject to the following conditions: (a) The season may be 90 days and must run concurrently with the snow goose season; (b) the State agency must issue and obtain harvest and hunting participation data; and (c) no more than 6,000 permits may be issued, auhorizing each permitee to take 1 tundra swan.

Mississippi Flyway

The Mississippi Flyway includes Alabama, Arkansas, Illinois, Indiana, Iowa, Kentucky, Louisiana, Michian, Minnesota, Mississippi, Missouri, Ohio, Tennessee and Wisconsin.

Ducks, Coots, and Mergansers

Outside Dates: Between October 3, 1987 (October 1 in Wisconsin), and January 17, 1988, in all States.

Hunting Season: Not more than 40 days.

Canvasbacks: The season on canvasbacks is closed.

Limits: The daily bag limit of ducks is 4, and may include no more than 2 mallards (no more than 1 of which may be a female), 1 black duck, 2 wood ducks (except as noted below), 2 pintails, and 1 redhead. The possession limit is 8, including no more than 4 mallards (no more than 2 of which may be female), 2 black ducks, 4 wood ducks (except as noted below), 4 pintails, and 2 redheads.

Merganser Limits: The dail bag limit of mergansers is 5, only 1 of which may be a hooded merganser. The possession limit is 10, only 2 of which may be hooded mergánsers.

Coot Limits: The daily bag and possession limits of coots are 15 and 30, respectively.

Point-System Option: As an alternative to conventional bag limits for ducks, a 40-day season with point-system bag and possession limis may be selected within the framework dates prescribed. Point values for species and sexes taken are as follows: The female mallard and black duck count 100 points each; the redhead, wood duck (except as noted below) and hooded merganser count 70 points each; the blue-winged teal, cinnamon teal, wigeon, gadwall, shoveler, scaup, green-winged teal and mergansers (except hooded merganser) count 20 points each; the male mallard, pintail, and all other species of ducks count 35 points each. The daily bag limit is reached when the point value of the last bird taken, added to the sum of the point values of the other birds already taken during that day, reaches or exceeds 100 points. The possession limit is the maximum number of birds that legally could have been taken in 2 days.

Coot Limits—Point System: Coots have a point value of zero, but the daily bag and possession limits are 15 and 30, respectively, as under the conventional limits.

Early Wood Duck Season Option: Arkansas, Louisiana, Mississippi and Alabama may split their regular duck hunting seasons in such a way that a hunting season not to exceed 9 consecutive days may occur between October 3 and October 15. During this period, under conventional regulations, no special restrictions within the regular daily bag and possession limits established for the Flyway shall apply to wood ducks, and under the point system the point value of wood ducks shall be 25 points. For other species of ducks, daily bag and possession limits shall be the same as established for the Flyway under conventional or point-system regulations. In addition, the extra blue-winged teal option available to States in this Flyway that select conventional regulations and do not have a September teal season may be selected during this period. This exception to the daily bag and possesion limits for wood ducks shall not apply to that portion of the duck hunting season that occurs after Octobr 15.

Western Louisiana: In that portion of Louisiana west of a boundary beginning at the Arkansas-Louisiana border on Louisiana Highway 3; then south along Louisiana Highway 3 to Bossier City; then east along Interstate 20 to Minden; then south along Louisiana Highway 7 to Ringgold; then east along Louisana Highway 4 to Jonesboro; then south along U.S. Highway 167 to Lafayette; then southeast along U.S. Highway 90 to Houma; then south along the Houman Navigation Channel to the Gulf of Mexico through Cat Island Pass—the seaon for ducks coots and mergansers may extend 5 additional days. If the 5-day extension is selected, and if point-system regulatons ae selected for the State, point values will be the same as for the rest of the State.

Pymatuning Reservoir Area, Ohio: The waterfowl seasons, limits and shooting hours in the Pymatuning Reservoir area of Ohio will be the same as those selected by Pennsylvania. The area includes Pymatuning Reservoir and that part of Ohio bounded on the north by County Road 306 knows as Woodward Road, on the west by Pymatuning Lake Road, and on the south by U.S. Highway 322.

Zoning

Alabama, Illinois, Indiana, Iowa, Michigan, Missouri, Ohio, Tennessee, and Wisconsin may select hunting seasons for ducks, coots and mergansers by zones described as follows:

Alabama: South Zone—Mobile and Baldwin Counties. North zone—The remainder of Alabama. The season in the South Zone may be split.

Illinois: North Zone—That portion of the State north of a line running east from the Iowa border along Illinois Highway 92 to I–280, east along I–280 to I–80, then east along I–80 to the Indiana border. Central Zone—That portion of the State between the North and South Zone boundaries. South Zone—That portion of the State south of a line running east from the Missouri border along the Modoc Ferry route to Randolph County Highway 12, north along Highway 12 to Illinois Highway 3, north along Illinois Highway 3 to Illinois Highway 159, north along Illinois Highway 159 to Illinois Highway 161, east along Illinois Highway 161 to Illinois Highway 4, north along Illinois Highway 4 to I–70, then east along I–70 to the Indiana border.

Indiana: North Zone—That portion of the State north of a line extending east from the Illinois border along State highway 18 to U.S. Highway 31, then north along U.S. 31 to U.S. Highway 24, then east along U.S. 24 to Huntington, then southeast along U.S. Highway 224 to the Ohio border. Ohio River Zone: That portion of Indiana south of a line extending east from the Illinois border along interstate Highway 64 to New Albany, then east along State Highway 62 to State Highway 56, then east along State Highway 56 to Vevay, then on State Highway 156 along the Ohio River to North Landing, then north along State Highway 56 to U.S. Highway 50, then northeast along U.S. 50 to the Ohio border. South Zone: That portion of the

State between the North and Ohio River Zone boundaries. The season in each zone may be split into two segments.

Iowa: North Zone—That portion of Iowa north of a line running west from the Illinois border along I–80 to U.S. 59, north along U.S. 59 to State Highway 37, northwest along State Highway 37 to State highway 175, then west along State highway 175 to the Nebraska border. South Zone—the remainder of the State.

Michigan: North Zone—The Upper Peninsula. South Zone—That portion of the State south of a line beginning at the Wisconsin border in Lake Michigan due west of the mouth of Stony Creek in Oceana County; then due east to, and east and south along the south shore of, Stony Creek to Webster Road, east and south on Webster Road to Stony Lake Road, east on Stony Lake and Garfield Roads to M–20, east on M–20 to U.S.-10B.R. in the city of Midland, east on U.S.–10B.R. to U.S.–10, east on U.S.–10 and M–25 to the Saginaw River, downstream along the thread of the Saginaw River to Saginaw Bay, then on a northeasterly line, passing one-half mile north of the Corps of Engineers confined disposal island offshore of the Carn powerplant, to a point one mile north of the Charity islands, then continuing northeasterly to the Ontario border in Lake Huron. Middle Zone—The remainder of the State. Michigan may split its season in each zone into two segments.

Missouri: North Zone—That portion of Missouri north of a line running east from the Kansas border along U.S. Highway 54 to U.S. Highway 65, south along U.S. 65 to State Highway 32, east along State Highway 32 to State Highway 72, east along State Highway 72 to State Highway 21, south along State Highway 21 to U.S. Highway 60, east along U.S. 60 to State Highway 51, south along State highway 51 to State Highway 53, south along State Highway 53 to U.S. Highway 62, east along U.S. 62 to I–55, north along I–55 to State Highway 34, then east along State Highway 34 to the Illinois border. South Zone—The remainder of Missouri. Missouri may split its season in each zone into two segments.

Ohio: The counties of Darke, Miami, Clark, Champaign, Union, Delaware, Licking, Muskingam, Guernsey, Harrison and Jefferson and all counties north thereof. In addition, the North Zone also includes that portion of the Buckeye Lake area in Fairfield and Perry Counties bounded on the west by State Highway 37, on the south by State Highway 204, and on the east by State Highway 13. Ohio River Zone—The counties of Hamilton, Clermont, Brown, Adams, Scioto, Lawrence, Gallia and Meigs. South Zone—That portion of the State between the North and Ohio River Zone boundaries. Ohio may split its season in each zone into two segments.

Tennessee: Reelfoot Zone—Lake and Obion Counties, or a designated portion of that area. State Zone—The remainder of Tennessee. Seasons may be split into two segments in each zone.

Wisconsin: North Zone—That portion of the State north of a line extending northerly from the Minnesota border along the center line of the Chippewa River to State Highway 35, east along State Highway 35 to State Highway 25, north along State Highway 25 to U.S. Highway 10, east along U.S. Highway 10 to its junction with the Manitowoc Harbor in the city of Manitowoc, then easterly to the eastern State boundary in Lake Michigan. South Zone—The remainder of Wisconsin. The season in the South Zone may be split into two segments.

Within each State: (1) The same bag limit option must be selected for all zones; and (2) if a special scaup season is selected for a zone, it shall be held outside the regular season in that zone.

Geese

Definition: For the purpose of hunting regulations listed below, the term "geese" also includes brant.

Outside Dates, Season Lengths and Limits: Between October 3, 1987 (October 1 in Wisconsin) and January 17, 1988, States may select 70-day seasons for geese, with a daily bag limit of 5 geese, to include no more than 2 white-fronted geese. The possession limit is 10 geese, to include no more than 4 white-fronted geese. Regulations for Canada geese and exceptions to the above general provisions are shown below by State.

Outside Dates and Limits on Snow and White-fronted Geese in Arkansas and Louisiana: Between October 3, 1987, and January 31, 1988, Arkansas may hold a 70-day season on snow (including blue) geese. Between October 3, 1987, and February 14, 1988, Louisiana may hold 70-day seasons on snow (including blue) and white-fronted geese by zones established for duck hunting seasons. Daily bag and possession limits are as described above.

Minnesota. In the:

(a) Lac Qui Parle Goose Management Block (Big Stone, Swift, Chippewa, Lac Qui Parle, and Yellow Medicine Counties) the season for Canada geese may extend for 30 days. In the Lac Qui Parle Quota Zone (described in State Regulations) the season will close after 30 days or when 4,000 birds have been harvested, which ever occurs first. Throughout the 5-county area the daily bag limit is 1 Canada goose and the possession limit is 2.

(b) Southeastern Zone (the Counties of Washington, Anoka, Hennepin, Carver, Scott, Rice, Steele, and Freeborn, and all Counties south and east thereof) the season for Canada geese may extend for 70 consecutive days. The daily bag limit is 2 Canada geese and the possession limit is 4. In selected areas of the Metro Goose Management Block (described in State regulations) and in Olmsted County, experimental late seasons may be held during December 18–27 to harvest Giant Canada geese. During these seasons, the daily bag limit is 2 Canada geese and the possession limit is 4.

(c) Remainder of the State the season for Canada geese may extend for 40 days. The daily bag limit is 1 Canada goose and the possession limit is 2.

Iowa: The season may extend for 45 consecutive days. The daily bag limit is 2 Canada geese and the possession limit is 4. The season for geese in the Southwest Goose Zone (that portion of the State bounded by U.S. Highway 92 and 71) may be held at a different time than the season in the remainder of the State.

Missouri In the:

(a) Swan Lake Zone (described in State regulations) the season for Canada geese closes after 40 days or when 10,000 birds have been harvested, whichever occurs first. The daily bag limit is 2 Canada geese and the possession limit is 4.

(b) Southeast Zone (east of U.S. Highway 67 and south of Crystal City)—A 40-day season on Canada geese may be selected December 1, 1987, and January 17, 1988, with a daily bag limit of 1 Canada goose and a possession limit of 2.

(c) Remainder of the State the season for Canada geese may extend for 40 days in the respective duck hunting zones. The daily bag limit is 1 Canada goose, and the possession limit is 2.

Wisconsin: The total harvest of Canada geese in the State will be limited to 49,500 birds. In the:

(a) Horicon—Central Zone (Columbia, Dodge, Fond Fond Du Lac, Green Lake, Marquette and Winnebago Counties, and the northwest portion of Washington County north of State Highway 33 and west of U.S. Highway 45)—the harvest of Canada geese is limited to 32,500 birds, with 2,000 birds allocated to the Theresa Subzone. The season may not exceed 50 days. In the Theresa Subzone (described in State regulations), the daily bag limit is 1 Canada goose per permittee per 5-day

period, up to a season limit of 4. In the remainder of the Horicon-Central Zone, the season limit may not exceed 2 Canada geese per permittee, and the issuance of permits and tags may not exceed 40,300 permits with 1 tag each and 3,000 permits with 2 tags each.

(b) Mississippi River Zone (that portion of the State west of the Burlington-Northern Railroad in Grant, Crawford, Vernon, LaCrosse, Trempealeau, Buffalo, Pepin and Pierce Counties)—the season for Canada geese may extend for 70 days. Limits are 1 Canada goose daily and 2 in possession through November 24, and 2 daily and 4 in possession thereafter.

(c) Northeast Goose Zone (that portion of the North Duck Zone which includes the Counties of Vilas, Oneida, Lincoln, Marathon, a portion of Wood County, and all counties or portions of counties eastward). The season for Canada geese may not exceed 12 days. The daily bag limit is 1 Canada goose and the possession limit is 2. In Brown County, a special late season to control local populations of giant Canada geese may be held during December 1–31. The daily bag and possession limits during this special season are 2 and 4 birds, respectively.

(d) Southeast Goose Zone (that portion of the South Duck Zone which includes part of Wood County, Juneau, Sauk, Dane and Green Counties and all counties or portions of counties eastward)—in that portion of Southeast Zone outside the Horicon-Central tag zone, the season may not exceed 12 days. The daily bag limit is 1 Canada goose and the possession limit is 2. In the Rock Prairie Zone (described in State regulations), a special late season to harvest giant Canada geese may be held between November 7 and December 6. During the late season, the daily bag limit is 1 Canada goose and the possession limit is 2.

(e) Northwest Goose Zone (that portion of the North Duck Zone west of the Northeast Goose Zone)—the season for Canada geese may not exceed 20 days. The daily bag limit is 1 Canada goose and the possession limit is 2.

(f) Southwest Goose Zone (that portion of the South Duck Zone west of the Southeast Goose Zone)—the season for Canada geese may not exceed 20 days. The daily bag limit is 1 Canada goose and the possession limit is 2.

In that portion of Wisconsin outside the Horicon-Central Zone, the progress of the Canada goose harvest must be monitored and the season closed if necessary, to insure that the harvest does not exceed 17,000 birds.

Illinois: The total harvest of Canada geese in the State will be limited to 52,500 birds. In the:

(a) Southern Illinois Quota Zone (described in State regulations)—The season for Canada geese will close after 50 days or when 26,300 birds have been harvested, whichever occurs first. The daily bag limit is 2 Canada geese and the possession limit is 4.

(b) Rend Lake Quota Zone (Franklin and Jefferson Counties)—The season for Canada geese will close after 50 days or when 7,900 birds have been harvested, whichever occurs first. The daily bag limit is 2 Canada geese and the possession limit is 4.

(c) Tri-County Area (all of Knox County; the townships of Buckhart, Canton, Cass, Deerfield, Fairview, Farmington, Joshua, Orion, Putnam and that portion of Banner Township bounded on the north by Illinois Route 9 and on the east by the U.S. 24 in Fulton County; the township of Alba, Annawan, Atkinson and Cornwall in Henry County)—The season for Canada geese may not exceed 30 days. The daily bag limit is 1 Canada goose and the possession limit is 4.

(d) Remainder of State—Seasons for Canada geese up to 40 days may be selected by zones established for duck hunting seasons. The daily bag limit is 2 Canada geese and the possession limit is 4.

Michigan: The total harvest of Canada geese in the State will be limited to 58,000 birds. In the:

(a) North Zone—The framework opening date for geese is September 26 and the season for Canada geese may extend for 40 days, except in Ontonagon, Baraga, Houghton and Marquette Counties, where the season will close after 20 days or when 6,500 birds have been harvested, whichever occurs first. The daily bag limit is 2 Canada geese and the possession limit is 4.

(b) Middle Zone—The season for Canada geese may extend for 40 days. The daily bag limit is 2 Canada geese and the possession limit is 4.

(c) South Zone—(1) Allegan County Zone (that portion of Allegan County west of U.S. Highway 131)—the season for Canada geese will close after 50 days or when 3,000 birds have been harvested, whichever occurs first. The daily bag limit is 2 Canada geese and the possession limit is 4.

(2) Muskegon Wastewater Zone (described in State regulations)—the season for Canada geese will close after 50 days or when 500 birds have been harvested, whichever occurs first. The daily bag limit is 2 Canada geese and the possession limit is 4.

(3) Saginaw County Goose Management Area—the season for Canada geese will close after 50 days or when 4,500 birds have been harvested, whichever occurs first. The daily bag limit is 2 Canada geese and the possession limit is 4.

(4) Remainder of South Zone: (i) East of U.S. Highways 27 and 127—the season for Canada geese may extend for 40 days. The daily bag limit is 2 Canada geese and the possession limit is 4.

(ii) West of U.S. Highways 27 and 127—the season for Canada geese may extend for 40 days. The daily bag limit is 1 Canada goose and the possession limit is 2.

(d) Southern Michigan Goose Management Area (that portion of Michigan south of a boundary described as follows: From the beginning of the Michigan-Ontario border at the Bluewater Bridge south and west along highways I–94, I–69, M–21, I–96, I–196, and Lake Michigan Drive (M–45), then due west to the Wisconsin border)—A late Canada goose season of up to 30 days may be held between January 9 and February 7, 1988. The daily bag limit is 2 Canada geese and the possession limit is 4.

Ohio: The daily bag limit is 2 Canada geese and the possession limit is 4, except that in the counties of Ashtabula, Trumbull, Marion, Wyandot, Lucas, Ottawa, Erie, Sandusky, Mercer and Auglaize, the daily bag limit is 1 Canada goose and the possession limit is 2.

Indiana: The total harvest of Canada geese in the State will be limited to 16,000 birds. In:

(a) Posey County—The season for Canada geese will close after 50 days or when 4,700 birds have been harvested, whichever occurs first. The daily bag limit is 2 Canada geese and the possession limit is 4. The season may extend to January 31, 1988.

(b) Remainder of the State—The season for Canada geese may extend for 70 days. The daily bag limit is 2 Canada geese and the possession limit is 4.

Kentucky: In the:

(a) West Kentucky Zone (that portion of the State west of a line beginning at the Kentucky-Tennessee border at Fulton, Kentucky, extending northerly along the Purchase Parkway to I–24, east on I–24 to U.S. 641; northerly on U.S. 641 to U.S. 60; northeasterly on U.S. 60 to U.S. 41; and then northerly on U.S. 41 to the Kentucky-Indiana border)—The season for Canada geese may extend for 50 days, and the harvest will be limited to 16,500 birds. Of the 16,500-bird quota, 10,400 birds will be allocated to the Ballard Subzone and 3,300 birds will be allocated to the Henderson-Union

Subzone (both subzones described in State regulations). If the quota in either subzone is reached prior to completion of the 50-day season, the season in that subzone will be closed. If this occurs, the season in those counties and portions of counties outside of, but associated with, the respective subzone (listed in State regulations) may continue for an additional 7 days, not to exceed a total of 50 days. The daily bag limit is 2 Canada geese and the possession limit is 4. The season may extend to January 31, 1988.

(b) Remainder of the State—The season may extend for 70 days. The daily bag limit is 2 Canada geese and the possession limit is 4.

Tennessee: In the:

(a) Northwest Zone (Lake, Obion, and Weakley Counties, and those portions of Gibson and Dyer Counties not included in the Southwest Zone)—The season may extend for 50 days, and the harvest of Canada geese will be limited to 7,200 birds. Of the 7,200-bird quota, 5,000 birds will be allocated to the Reelfoot Subzone (described in State regulations). If the quota in the Reelfoot Subzone is reached prior to completion of the 50-day season, the season in the subzone will be closed. If this occurs, the season in the remainder of the Northwest Zone may continue for an additional 7 days, not to exceed a total of 50 days. The daily bag limit is 2 Canada geese and the possession limit is 4. The season may extend to January 31, 1988.

(b) Southwest Zone (that portion of the State bounded on the north by State Highways 20 and 104, and on the east by U.S. Highways 45W and 45)—The season for Canada geese may extend for 15 days, with a framework closing date of January 31, 1988. The daily bag limit is 1 Canada goose and the possession limit is 2.

(c) Remainder of the State—The season for Canada geese may extend for 70 days. The daily bag limit is 1 Canada goose and the possession limit is 2, except in that portion west of State Highway 13, where the daily bag and possession limits are 2 and 4, respectively.

Arkansas: The total harvest of Canada geese in the State will be limited to 2,400 birds. The season for Canada geese may extend for 15 days, with a framework closing date of January 31, 1988. The daily bag limit is 1 Canada goose and the possession limit is 2.

Louisiana: The season for Canada geese is closed.

Mississippi: In the:

(a) Sardis Zone (described in State regulations)—The season for Canada geese may extend for 30 days, 10 days of which must occur before December 15, 1987. The daily bag limit is 1 Canada goose and possession limit is 2.

(b) Remainder of the State—The season for Canada geese may not exceed 15 days. The daily bag limit is 1 Canada goose and the possession limit is 2.

In both areas, the framework closing date is January 31, 1988.

Alabama: In Alabama, the daily bag limit is 2 Canada geese and the possession limit is 4.

Missouri, Illinois, Indiana, Kentucky and Tennessee Quota Zone Closures

When it has been determined that the quota of Canada geese allotted to the Southern Illinois Quota Zone, the Rend Lake Quota Zone in Illinois, the Swan Lake Zone in Missouri, Posey County in Indiana, the Ballard and Henderson-Union Subzones in Kentucky and the Reelfoot Subzone in Tennessee will have been filled, the season for taking Canada geese in the respective area will be closed by the Director upon giving public notice through local information media at least 48 hours in advance of the time and date of closing, or by the State through State regulations with such notice and time (not in excess of 48 hours) as they deem necessary.

Shipping Restriction

In Illinois and Missouri and in the Kentucky counties of Ballard, Hickman, Fulton and Carlisle, geese may not be transported, shipped or delivered for transportation or shipment by common carrier, the Postal Service, or by any person except as the personal baggage of licensed waterfowl hunters, provided that no hunter shall possess or transport more than the legally-prescribed possession limit of geese. Geese possessed or transported by persons other than the taker must be labeled with the name and address of the taker and the date taken.

Central Flyway

The Central Flyway includes Colorado (east of the Continental Divide), Kansas, Montana (Blaine, Carbon, Fergus, Judith Basin, Stillwater, Sweetgrass, Wheatland and all counties east thereof), Nebraska, New Mexico (east of the Continental Divide except that the entire Jicarilla Apache Indian Reservation is in the Pacific Flyway), North Dakota, Oklahoma, South Dakota, Texas and Wyoming (east of the Continental Divide).

Ducks (including mergansers) and Coots

Outside Dates: October 3, 1987, through January 17, 1988.

Canvasbacks: There will be no open season on canvasbacks in the Central Flyway.

Hunting Season: Seasons in the Low Plains Unit may include no more than 51 days. Seasons in the High Plains Mallard Management Unit may include no more than 67 days, provided that the last 16 days may start no earlier than December 12, 1987. The High Plains Unit, roughly defined as that portion of the Central Flyway which lies west of the 100th meridian, shall be described in State regulations.

States may split their seasons into 2 or, in lieu of zoning, 3 segments.

Daily Bag and Possession Limits

Conventional limits are 4 ducks daily which may include no more than 3 mallards no more than 1 of which may be a female, 3 pintails, 1 redhead, 1 hooded merganser, and 2 wood ducks; and 8 in possession which may include no more than 6 mallards no more than 1 of which may be a female, 6 pintails, 2 redheads, 2 hooded mergansers, and 4 wood ducks.

As an alternative, States may select point system bag and possession limits. Under this system, the daily limit is reached when the point values of the last duck taken and other ducks already taken during that day total 100 or more points. The value of each female mallard, black duck, and mottled duck is 100 points; each wood duck, redhead and hooded merganser, and in Texas only, each black bellied whistling duck and fulvous whistling duck is 70 points; each blue-winged teal, green-winged teal, cinnamon teal, scaup, gadwall, wigeon, shoveler, and merganser (except the hooded merganser) is 20 points; and each pintail, drake mallard, and each duck of other species and sexes is 35 points. The possession limit is the equivalent of two daily limits.

Daily bag and possession limits for coots are 15 and 30, respectively.

Zoning

Duck and coot hunting seasons may be selected independently in existing zones as described in the following States:

Montana (Central Flyway portion):

Experimental Zone 1. The counties of Bighorn, Blaine, Carbon, Daniels, Fergus, Garfield, Golden Valley, Judith Basin, McCone, Musselshell, Petroleum, Phillips, Richland, Roosevelt, Sheridan, Stillwater, Sweetgrass, Valley, Wheatland and Yellowstone.

Experimental Zone 2. The counties of Carter, Custer, Dawson, Fallon, Powder River, Prairie, Rosebud, Treasure and Wibaux.

Nebraska (Low Plains portion):

Zone 1—Keya Paha County east of U.S. Highway 183 and all of Boyd

County including the adjacent waters of the Niobrara River.

Zone 2—The area bounded by designated highways and political boundaries starting on U.S. 73 at the State Line near Falls City; north to N–67; north through Nemaha to U.S. 73–75; north to U.S. 34; west to the Alvo Road; north to U.S. 6; northeast to N–63; north and west to U.S. 77; north to N–92; west to U.S. 81; south to N–66; west to N–14; south to I–80; west to U.S. 34; west to N–10; south to the State Line; west to U.S. 283; north to N–23; west to N–47; north to U.S. 30; east to N–14; north to N–52; northwesterly to N–91; west to U.S. 281; north to Wheeler County and including all of Wheeler and Garfield Counties and Loup County east of U.S. 183; east on N–70 from Wheeler County to N–14; south to N–39; southeast to N–22; east to U.S. 81; southeast to U.S. 30; east to U.S. 73; north to N–51; east to the State Line; and south and west along the State Line to the point of beginning.

Zone 3—The area, excluding Zone 1, north of Zone 2.

Zone 4—The area south of Zone 2.

New Mexico:

Experimental Zone 1. The Central Flyway portion of New Mexico north of Interstate Highway 40 and U.S. Highway 54.

Experimental Zone 2. The remainder of the Central Flyway portion of New Mexico.

Oklahoma:

Zone 1—That portion of northwestern Oklahoma, except the Panhandle, bounded by the following highways: starting at the Texas-Oklahoma border, OK 33 to OK 47, OK 47 to U.S. 183, U.S. 183 to I–40, I–40 to U.S. 177, U.S. 177 to OK 33, OK 33 to I–35, I–35 to U.S. 60, U.S. 60 to U.S. 64, U.S. 64 to OK 132, and OK 132 to the Oklahoma-Kansas state line.

Zone 2—The remainder of the Low Plains.

South Dakota (Low Plains portion):

South Zone—Bon Homme, Yankton and Clay Counties south of S.D. Highway 50; Charles Mix County south and west of a line formed by S.D. Highway 50 from Douglas County to Geddes, Highways CFAS 6198 and CFAS 6516 to Lake Andes, and S.D. Highway 50 to Bon Homme County; Gregory County; and Union County south and west of S.D. Highway 50 and Interstate Highway 29.

North Zone—The remainder of the Low Plains.

Wyoming (Central Flyway portion):

Zone 1—Sheridan, Johnson, Natrona, Campbell, Crook, Weston, Converse and Niobrara Counties.

Zone 2—Platte, Goshen and Laramie Counties.

Zone 3—Carbon and Albany Counties.

Zone 4—Park, Big Horn, Hot Springs, Washakie and Fremont Counties.

Geese

Definitions: In the Central Flyway, "geese" includes all species of geese and brant, "dark geese" includes Canada and white-fronted geese and black brant, and "light geese" includes all others.

Outside Dates: October 3, 1987, through January 17, 1988, for dark geese and October 3, 1987, through February 14, 1988 (February 28, 1988, in New Mexico), for light geese.

Possession Limits: Goose possession limits are twice the daily bag limits (see exception for light geese in the Rio Grande Valley Unit of New Mexico).

Hunting Seasons: Seasons in States, and independently in described goose management units within States, may be as follows:

Colorado: No more than 93 days with a daily limit of 5 geese that may include no more than 2 dark geese.

Kansas: For dark geese, no more than 72 days with daily limits of 2 Canada geese or 1 Canada goose and 1 white-fronted goose through November 29 and no more than 1 Canada goose and 1 white-fronted goose during the remainder of the season.

For Light Goose Unit 1 (that area east of U.S. 75 and north of I–70), no more than 86 days with a daily limit of 5.

For Light Goose Unit 2 (the remainder of Kansas), no more than 86 days with a daily limit of 5.

Montana: No more than 93 days with daily limits of 2 dark geese and 3 light geese in Sheridan County and 3 dark geese and 3 light geese in the remainder of the Central Flyway.

Nebraska: For Dark Goose Unit 1 (Boyd, Cedar west of U.S. 81, Keya Paha east of U.S. 183, and Knox Counties), no more than 79 days with daily limits of 1 Canada goose and 1 white-fronted goose through November 13 and no more than 2 Canada geese or 1 Canada goose and 1 white-fronted goose for the remainder the season.

For Dark Goose Unit 2 (the remainder of the State east of the following highway starting at the South Dakota line; U.S. 183 to NE 2, NE 2 to U.S. 281, and U.S. 281 to Kansas), no more than 72 days with daily limits of 2 Canada geese or 1 Canada goose and 1 white-fronted goose through November 22 and no more than 1 Canada goose and 1 white-fronted goose for the remainder of the season.

For Dark Goose Unit 3 (that part of the State west of Units 1 and 2), no more than 72 days with daily limits of 2 Canada geese or 1 Canada goose and 1 white-fronted goose through November 22 and no more than 1 Canada goose and 1 white-fronted goose for the remainder of the season.

For light geese, no more than 86 days with a daily limit of 5.

New Mexico: For dark geese, no more than 93 days with a daily limit of 2.

For light geese in the Rio Grande Valley Unit (the Central Flyway portion of New Mexico west of highways starting at the Texas line north of El Paso: U.S. 54 to U.S. 60, U.S. 60 to U.S. 285, and U.S. 285 to the Colorado line), no more than 107 days with a daily limit of 5 and a possession limit of 20.

For light geese in the remainder of the Central Flyway portion of New Mexico, no more than 93 days with a daily limit of 5.

North Dakota: For dark geese, no more than 72 days with daily limits of 1 Canada goose and 1 white-fronted goose or 2 white-fronted geese through November 1 and no more than 2 dark geese during the remainder of the season.

For light geese, no more than 86 days with a daily limit of 5.

Oklahoma: For dark geese, no more than 72 days with a daily limit of 2 Canada geese or 1 Canada goose and 1 white-fronted goose.

For light geese, no more than 86 days with a daily limit of 5.

South Dakota: For dark geese in the Missouri River Unit (the Counties of Bon Homme, Brule, Buffalo, Campbell, Charles Mix, Corson east of SD Highway 65, Dewey, Gregory, Haakon north of Kirley Road and east of Plum Creek, Hughes, Hyde, Lyman north of Interstate 90 and east of U.S. Highway 83, Potter, Stanley, Sully, Tripp east of U.S. Highway 183, Walworth, and Yankton west of U.S. Highway 81), no more than 79 days with daily limits of 1 Canada goose and 1 white-fronted goose through November 13 and no more than 2 Canada geese or 1 Canada goose and 1 white-fronted goose for the remainder of the season.

For dark geese in the remainder of the State, no more than 72 days with a daily limit of 1 Canada goose and 1 white-fronted goose.

For light geese, no more than 86 days with a daily limit of 5.

Texas: West of U.S. 81, no more than 93 days with a daily limit of 5 geese which may include no more than 2 dark geese.

For dark geese east of U.S. 81, no more than 72 days with a daily limit of 1 Canada goose and 1 white-fronted goose.

For light geese east of U.S. 81, no more than 86 days with a daily limit of 5.

Wyoming: For geese in each of 4 Units that coincide with management zones for ducks, no more than 93 days with daily limits of 2.

Tundra Swans

The following States may issue permits authorizing each permittee to take no more than one tundra swan, subject to guidelines in a current, approved management plan and general conditions that each State determine hunter participation and harvest, and specified conditions as follows:

Montana (Central Flyway portion): no more than 500 permits with the season dates concurrent with the season for taking geese.

North Dakota: no more than 1,000 permits with the season dates concurrent with the season for taking ducks.

South Dakota: no more than 500 permits with the season dates concurrent with the season for taking ducks.

Pacific Flyway

The Pacific Flyway includes Arizona, California*, Colorado (west of the Continental Divide), Idaho, Montana (including and to the west of Hill, Chouteau, Cascade, Meagher and Park Counties), Nevada, New Mexico (the Jicarilla Apache Indian Reservation and west of the Continental Divide), Oregon, Utah, Washington and Wyoming (west of the Continental Divide including the Great Divide Basin).

Ducks, Coots, Common Moorhens, and Common Snipe

Outside Dates: Between October 3, 1987, and January 10, 1988.

Hunting Seasons: Seasons may be split into two segments. Concurrent 79-day seasons on ducks (including mergansers), coots, common moorhens (gallinules) and common snipe may be selected except as subsequently noted. In the Oregon counties of Morrow and Umatilla and in Washington all areas lying east of the summit of the Cascade Mountains and east of the Big White Salmon River in Klickitat County, the seasons may be an additional 7 days.

Duck Limits: The basic daily bag limit is 5 ducks, including no more than 4 mallards but only 1 female mallard, 4 pintails but only 1 female pintail, and either 2 canvasbacks or 2 redheads or 1 of each. The possession limit is twice the daily bag limit.

Coot and Common Moorhen (Gallinule) Limits: The daily bag and possession limit of coots and common moorhens is 25 singly or in the aggregate.

Common Snipe Limits: The daily bag and possession limit of common snipe is 8 and 16, respectively.

California—Waterfowl Zones:* Season dates for the Colorado River Zone of California must coincide with season dates selected by Arizona. Season dates for the Northeastern and Southern Zones of California may differ from those in the remainder of the State.

Idaho—Duck Zones: Duck season dates for Zone 1 and Zone 2 may differ. Zone 1 includes all lands and waters within the Fort Hall Indian Reservation and Bannock County; Bingham County except that portion within the Blackfoot Reservoir drainage; and Power County east of State Highway 37 and State Highway 39. Zone 2 includes the remainder of the State.

Nevada—Clark County Waterfowl Zone: Season dates for Clark County may differ from those in the remainder of Nevada.

Colorado, Montana, New Mexico and Wyoming—Common Snipe: For States partially within the Flyway a 93-day season for common snipe may be selected to occur between September 1, 1987, and February 28, 1988, and need not be concurrent with the duck season.

Geese (Including brant)

Outside dates, season lengths and limits on geese (including brant): Seasons may be split into two segments. Between October 3, 1987, and January 17, 1988, a 93-day season on geese (except brant in Washington, Oregon and California*) may be selected, except as subsequently noted. The basic daily bag and possession limit is 6, provided that the daily bag limit includes no more than 3 white geese (snow, including blue, and Ross' geese) and 3 dark geese (all other species of geese). In Washington and Idaho, the daily bag and possession limits are 3 and 6 geese, respectively. Between October 3, 1987, and January 10, 1988, Washington, Oregon and California* may select an open season for brant with daily bag and possession limits of 2 and 4 brant, respectively. Brant seasons may not exceed 16-consecutive days in Washington and Oregon and 30-consecutive days in California* and must run concurrent with the duck season.

Aleutian Canada goose closure: There will be no open season on Aleutian Canada geese. Emergency closures may be invoked for all Canada geese should Aleutian Canada goose distribution patterns or other circumstances justify such actions.

California, Oregon, Washington—Cackling Canada goose closure:* There will be no open season on the cackling Canada geese in California*, Oregon and Washington.

California—Canada goose and dark goose closures:* Three areas in California*, described as follows, are restricted in the hunting of certain geese:

(1) In the counties of Del Norte and Humboldt there will be no open season for Canada geese.

(2) In the Sacramento Valley in that area bounded by a line beginning at Willows in Glenn County proceeding south on Interstate Highway 5 to the junction with Hahn Road north of Arbuckle in Colusa County; then easterly on Hahn Road and the Grimes-Arbuckle Road to Grimes on the Sacramento River; then southerly on the Sacramento River to the Tisdale By-pass; then easterly on the Tisdale By-pass to where it meets O'Banion Road; then easterly on O'Banion Road to State Highway 99; then northerly on State Highway 99 to its junction with the Gridley-Colusa Highway in Gridley in Butte County; then westerly on the Gridley-Colusa Highway to its junction with the River Road; then northerly on the River Road to the Princeton Ferry; then westerly across the Sacramento River to State Highway 45; then northerly on State Highway 45 to its junction with State Highway 162; then continuing northerly on State Highway 45–162 to Glenn; then westerly on State Highway 162 to the point of beginning in Willows; there will be no open season for Canada geese. In this area, the season on dark geese must end on or before November 30, 1987.

(3) In the San Joaquin Valley in that area bounded by a line beginning at Modesto in Stanislaus County proceeding west on State Highway 132 to the junction of Interstate Highway 5; then southerly on Interstate Highway 5 to the junction of State Highway 152 in Merced County; then easterly on State Highway 152 to the junction of State Highway 59; then northerly on State Highway 59 to the junction of State Highway 99 at Merced; then northerly and westerly on State Highway 99 to the point of beginning; the hunting season for Canada geese will close no later than November 23, 1987.

California (Northeastern Zone)—Geese:* In the Northeastern Zone of California the season may be from October 10, 1987, to January 10, 1988, except that white-fronted geese may be taken only during October 10 to November 1, 1987. Limits will be 3 geese per day and 6 in possession, of which not more than 1 white-fronted goose or 2

Canada geese shall be in the daily limit and not more than 2 white-fronted geese and 4 Canada geese shall be in possession.

California (Balance of the State Zone)—Geese:* In the Balance of the State Zone the season may be from October 31, 1987, through January 17, 1988, except that white-fronted geese may be taken only during October 31, 1987, to January 3, 1988. Limits shall be 3 geese per day and in possession, of which not more than 1 may be a dark goose. The dark goose limits may be expanded to 2 provided that they are Canda geese (except Aleutian and cackling Canada geese for which the season is closed).

Western Oregon: In those portions of Coos and Curry Counties lying west of U.S. Highway 101 and that portion of Western Oregon north and west of a line formed by State Highway 126 and Interstate Highway 5, except for designated areas, there shall be no open season on Canada geese. In the remainder of Western Oregon, the season and limits shall be the same as those for the Pacific Flyway, except the seasons in the designated area must end upon attainment of their individual quotas which collectively equal 210 dusky Canada geese. Hunting of Canada geese in those designated areas shall only be by hunters possessing a state-issued permit authorizing them to do so.

Oregon (Lake and Klamath Counties)—Geese: In the Oregon counties of Lake and Klamath the season on white-fronted geese will not open until two weeks after the opening date of the general goose season.

Washington and Oregon (Columbia Basin Portions)—Geese: In the Washington counties of Adams, Benton, Douglas, Franklin, Grant, Kittitas, Klickitat, Lincoln, Walla Walla and Yakima, and in the Oregon counties of Gilliam, Morrow, Sherman, Umatilla, Union, Wallowa and Wasco, the goose season may be an additional 7 days.

Western Washington: In the Washington counties of Island, Skagit, Snohomish, and Whatcom, the season for snow geese may not extend beyond January 1, 1988. In Clark, Cowlitz, Wahkiakum, and Pacific Counties, except for areas to be designated by the State, there shall be no open season on Canada geese. For designated areas the seasons must end upon attainment of individual quotas which collectively will equal 90 dusky Canada geese. Hunting of Canada geese in those designated areas shall only be by hunters possessing a state-issued permit authorizing them to do so.

Idaho, Oregon and Montana—Pacific Population of Canada geese: In that portion of Idaho lying west of the line formed by U.S. Highway 93 north from the Nevada border to Shoshone, thence northerly on Idaho State Highway 75 (formerly U.S. Highway 93) to Challis, thence northerly on U.S. Highway 93 to the Montana border (except Boundary, Bonner, Kootenai, Benewah, Shoshone, Latah, Nez Perce, Lewis, Clearwater and Idaho Counties); in the Oregon counties of Baker and Malheur; and in Montana (Pacific Flyway portion west of the Continental Divide), the daily bag and possession limits are 2 and 4 Canada geese, respectively; and the season for Canada geese may not extend beyond January 3, 1988.

Montana and Wyoming—Rocky Mountain Population of Canada Geese: In Montana (Pacific Flyway portion east of the Continental Divide) and Wyoming the season may not extend beyond January 3, 1988. In Lincoln, Sweetwater and Sublette Counties, Wyoming, the combined special sandhill crane-Canada goose seasons and the regular goose season shall not exceed 93 days.

Idaho, Colorado and Utah: In that portion of Idaho lying east of the line formed by U.S. Highway 93 north from the Nevada border to Shoshone, thence northerly on Idaho State Highway 75 (formerly U.S. Highway 93) to Challis, thence northerly on U.S. Highway 93 to the Montana border; in Colorado; and in Utah, except Washington County, the daily bag and possession limits are 2 and 4 Canada geese, respectively, and the season for Canada geese may be no more than 86 days and may not extend beyond Janauary 3, 1988.

Nevada: Nevada may designate season dates on geese in Clark County and in Elko County and that portion of White Pine County within Ruby Lake National Wildlife Refuge differing from those in the remainder of the State. In Clark County the season on Canada geese may be no more than 86 days. Except for Clark County the daily bag and possession limits are 2 and 4 Canada geese, respectively. In Clark County the daily bag and possession limits are 2 Canada geese.

Arizona, California, Utah and New Mexico:* In California, the Colorado River Zone where the season must be the same as that selected by Arizona and the Southern Zone; in Arizona; in New Mexico; and in Washington County, Utah; the season for Canada geese may be no more than 86 days. The daily bag and possession limit is 2 Canada geese except in that portion of California Department of Fish and Game District 22 within the Southern Zone (i.e. Imperial Valley) where the daily bag and possession limits for Canada geese are 1 and 2, respectively.

Tundra Swans

In Utah, Nevada and Montana, an open season for tundra swans may be selected to the following conditions: (a) The season must run concurrently with the duck season; (b) appropriate State agency must issue permits and obtain harvest and hunter participation data; (c) in Utah, no more than 2,500 permits may be issued, authorizing each permittee to take 1 tundra swan: (d) in Nevada, no more than 650 permits may be issued, authorizing each permittee to take 1 tundra swan in either Churchill, Lyon, or Pershing Counties; (e) in Montana, no more than 500 permits may be issued authorizing each permittee to take 1 tundra swan in either Teton or Cascade Counties.

Special Falconry Frameworks

Extended Seasons: Falconry is a permitted means of taking migratory game birds in any State meeting Federal falconry standards in 50 CFR 21.29(k). These States may select an extended season for taking migratory game birds in accordance with the following:

Framework Dates: Seasons must fall within the regular and any special season framework dates.

Daily Bag and Possession Limits: Daily bag and possession limits for all permitted migratory game birds shall not exceed 3 and 6 birds, respectively, singly or in the aggregate, during both regular hunting season and extended falconry seasons.

Regulations Publication: Each State selecting the special must inform the Service of the season dates and publish said regulations.

Regular Seasons: General hunting regulations, including seasons, hours, and limits, apply to falconry in each State listed in 50 CFR 21.29(k) which does not select an extended falconry season.

NOTE: In no instance shall the total number of days in any combination of duck seasons (regular duck season, sea duck season, September teal season, special scaup season, special scaup and goldeneye season or falconry season)

* In *California:* Except that there will be no hunting of waterfowl and coots authorized in those areas designated for nontoxic shot use as described in the July 21, 1987 **Federal Register** (52 FR 27368). The California Game and Fish Commission is presently reconsidering its approval for the implementation and enforcement of nontoxic shot requirements in those areas. The Service will publish the final framework for those areas upon notification of California's approval.

exceed 107 days for a species in one geographical area.

Date: September 11, 1987.

Susan Recce,

Acting Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 87-21680 Filed 9-17-87; 8:45 a.m.]

BILLING CODE 4310-55-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 661

[Docket No. 70845-7085]

Ocean Salmon Fisheries Off the Coasts of Washington, Oregon, and California

AGENCY: National Marine Fisheries Service (NMFS), NOAA, Commerce.

ACTION: Notice of season closure and opening; request for comments.

SUMMARY: NOAA announces the closure of the commercial all-species season from Cape Arago to Cape Blanco, Oregon, and the opening of the all-except-coho season in the same area three days later. The Director, Northwest Region, NMFS, has determined in consultation with representatives of the Pacific Fishery Management Council (Council) and the Oregon Department of Fish and Wildlife (ODFW), that this modification meets the criteria for inseason adjustments to management measures. The three-day closure of the commercial fishery between Cape Arago and Cape Blanco is necessary to protect Klamath River fall chinook.

EFFECTIVE DATE: Closure of the commercial all-species season in the exclusive economic zone (EEZ) from Cape Arago to Cape Blanco, Oregon, is effective at 2400 hours local time, September 15, 1987. Opening of the commercial all-except-coho season in the same area is effective at 0001 hours local time, September 19, 1987. Comments on this notice will be received until September 30, 1987.

ADDRESSES: Comments may be mailed to Rolland A. Schmitten, Director, Northwest Region, NMFS, BIN C15700, 7600 Sand Point Way NE., Seattle, WA 98115-0070; or E. Charles Fullerton, Director, Southwest Region, NMFS, 300 S. Ferry Street, Terminal Island, CA 90731-7415. Information relevant to this notice has been compiled in aggregate form and is available for public review during business hours at the same address.

FOR FURTHER INFORMATION CONTACT: Rolland A. Schmitten (Regional Director) at 206-526-6150, or E. Charles Fullerton at 213-514-6196.

SUPPLEMENTARY INFORMATION: The ocean salmon fisheries are managed under a framework fishery management plan (50 CFR Part 661). An amendment to the plan (52 FR 4146, February 10, 1987) authorizes inseason adjustments to management measures if the adjustments are consistent with fishery regimes established by the U.S.-Canada Pacific Salmon Commission, ocean escapement goals, conservation of the salmon resource, any adjudicated Indian fishing rights, and the ocean allocation scheme in the framework amendment. In addition, all inseason adjustments must be based on consideration of the following factors: Predicted sizes of salmon runs; harvest quotas and hooking mortality limits for the area and total allowable impact limitations if applicable; amount of recreational, commercial, and treaty Indian catch for each species in the area to date; amount of recreational, commercial, and treaty Indian fishing effort in the area to date; estimated average daily catch per fisherman; predicted fishing effort for the area to the end of the scheduled season; and other factors as appropriate.

Management measures for 1987 were effective on May 1, 1987 (52 FR 17264, May 6, 1987). In this preseason notice, NOAA announced that—

> . . . When the entire coho quota for the area south of Cape Falcon has been reached, an additional three-day closure will occur from Cape Arago to Point Delgada. (Table 1, footnote h)

The preseason regulations also stipulate that the commercial all-except-coho fishery in areas immediately north and south of the Cape Arago-Point Delgada area will open immediately after the all-species closure (Table 1).

The commercial fishery from Cape Blanco, Oregon, to Point Delgada, California, was closed effective June 25, 1987 (52 FR 24297, June 30, 1987), when the revised harvest quota of 113,300 chinook was projected to have been caught.

The 1987 troll catch quota for the area south of Cape Falcon is 401,700 coho salmon. The commercial catch of coho in the area has been slower than predicted preseason. A commercial all-species season ending date from Cape Falcon to Cape Blanco was established as September 15, 1987 (52 FR 33244, September 2, 1987) to protect Oregon coastal natural coho stocks which are impacted to a greater extent by late-season fishing.

Based on the best available information, the commercial coho catch quota for the area south of Cape Falcon will not be reached before the season ending date of September 15, 1987. The original purpose of the three-day closure was to protect Klamath River fall chinook which comprise a high percentage of the chinook catch between Cape Arago and Cape Blanco. The need for Klamath River fall chinook protection still exists, even though the triggering mechanism, the attainment of the coho quota, will not occur.

Therefore, NOAA issues this notice, after consideration of the factors specified for inseason adjustments, to (1) close the commercial all-species season in the EEZ from Cape Arago to Cape Blanco, Oregon, effective 2400 hours, local time, September 15, and (2) open the commercial all-except-coho season in the same area effective 0001 hours, local time, September 19, 1987. This notice does not affect other fisheries which may be operating in this or other areas.

The Regional Director consulted with the Chairman of the Council and representatives of ODFW regarding this closure of the commercial all-species season and the opening of the commercial all-except-coho season between Cape Arago and Cape Blanco. The ODFW representative confirmed that Oregon will manage the commercial fishery in state waters adjacent to these areas of the EEZ in accordance with this federal action.

Other Matters

This action is authorized by 50 CFR 661.23 and is in compliance with Executive Order 12291.

List of Subjects in 50 CFR Part 661

Fisheries, Fishing, Indians.

(16 U.S.C. 1801 *et seq.*)

Dated: September 15, 1987.

William E. Evans,

Assistant Administrator for Fisheries, National Marine Fisheries Service.

[FR Doc. 87-21664 Filed 9-15-87; 4:42 pm]

BILLING CODE 3510-22-M

Proposed Rules

Federal Register
Vol. 52, No. 181
Friday, September 18, 1987

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF AGRICULTURE

Food and Nutrition Service

7 CFR Part 246

Special Supplemental Food Program for Women, Infants and Children

AGENCY: Food and Nutrition Service. USDA.

ACTION: Proposed rule.

SUMMARY: This proposed action would make changes to three provisions in the regulations governing the Special Supplemental Food Program for Women, Infants and Children (WIC). The three provisions are unrelated, except that each has been a subject of concern to the WIC community and has been found by the Department to require consideration. First, this proposal would allow the age of the medical data required for certification (height, weight and bloodwork) to be up to 60 days old. A full certification period would be allowed provided that the data is 60 or fewer days old. Second, this proposal would allow the disqualification from WIC of vendors who have been assessed a Civil Money Penalty (CMP) in the Food Stamp Program. Finally, this proposal would authorize disclosure of information obtained from WIC Program applicants and participants to representatives of public organizations which administer health or welfare programs serving persons categorically eligible for WIC. Current WIC regulations restrict the disclosure of such information to persons directly connected with the administration or enforcement of the program and the Comptroller General.

DATE: To be assured of consideration, comments must be received on or before December 17, 1987.

ADDRESS: Comments should be sent to Patrick J. Clerkin, Director, Supplemental Food Programs Division, Food and Nutrition Service, USDA, 3101 Park Center Drive, Room 407, Alexandria, Virginia 22302, (703) 756–3746. All written comments will be available for public inspection during regular business hours (8:30 a.m. to 5:00 p.m., Monday through Friday) at the offices of the Food and Nutrition Service, 3101 Park Center Drive, Alexandria, Virginia 22302.

FOR FURTHER INFORMATION CONTACT: Barbara Hallman, Branch Chief, Policy and Program Development Branch, Supplemental Food Programs Division, Food and Nutrition Service, USDA, 3101 Park Center Drive, Room 407, Alexandria, Virginia 22302, (703) 756–3730, during regular business hours (8:30 a.m. to 5:00 p.m.) Monday through Friday.

SUPPLEMENTARY INFORMATION:

Classification

This proposed rule has been reviewed under Executive Order 12291, and has been determined to be *nonmajor*. The proposed rule will not have an annual effect on the economy of $100 million or more, will not cause a major increase in costs or prices for consumers; individual industries; Federal, State or local government agencies; or geographic regions. Nor will this rule have a significant adverse effect on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

This rule has been reviewed with regard to the requirements of the Regulatory Flexibility Act (5 U.S.C. 601–612). Pursuant to that review, the Administrator of the Food and Nutrition Service has certified that this proposal does not have significant economic impact on a substantial number of small entities. This rule does not contain reporting or recordkeeping requirements subject to approval by the Office of Management and Budget in accordance with the Paperwork Reduction Act of 1980 (44 U.S.C. 3507).

This program is listed in the Catalog of Federal Domestic Assistance Programs under No. 10.557 and is subject to the provisions of Executive Order 12372, which requires intergovernmental consultation with State and local officials (7 CFR Part 3015, Subpart V, and final rule-related notice published June 24, 1983 (48 FR 29114)).

Background

1. Age of Medical Data and Length of Certification Period § 246.7(f))

Program regulations have not previously attempted to place a temporal limit on the age of required medical intake data (i.e., bloodwork, weight, height or length) allowed in determining nutritional risk. Prior to the final rule published on February 13, 1985 (50 FR 6108), regulations implicitly allowed old data to be used, stating that if data used in nutritional risk determinations were taken before entrance to the Program, the certification intervals for participants (other than pregnant women) would be based on the date when the data were taken, rather than on the date of certification. Pregnant women were certified for the duration of their pregnancy and for up to 6 weeks postpartum.

On July 8, 1983 (48 FR 31502), the Department proposed to permit a person to be certified for a full certification period based on medical data collected within a six-month period preceding certification. However, many who commented on this proposal strenuously opposed the use of old data, especially data approaching 6 months old, contending that it is invalid for determining nutritional status. The Department evaluated the recommendations and agreed that older data would not accurately reflect an applicant's current status. There was no clear concensus among commenters regarding what shorter time limit would be appropriate. The final rule, therefore, retained the stipulations of previous regulations. In further consideration of concerns expressed by commentors, the regulations additionally required that the use of data gathered before the time of certification be restricted to that which is "reflective of" an applicant's current categorical status.

Following publication of the final rule, the issue of the age of medical data continued to concern State agencies. In response to requests for clarification, the Department issued guidance to the effect that information can be up to 30 days old without affecting the length of the certification period. The 30-day provision is consistent with the long-standing authority to shorten or extend certification periods by 30 days. In both instances, the 30-day leeway was

intended to facilitate coordination and scheduling of WIC certification and health care, and in the process to avoid repetitive testing, particularly bloodwork, over short periods of time.

Since issuance of this clarification, concerns have been voiced about the 30-day limit and the shortening of the certification period to reflect the age of data. Some State agencies have contended that more than 30 days is sometimes needed for the required medical data to reach WIC clinics through referral systems. They have suggested that 60 days would allow enough time for referral data to be received while at the same time assuring that the data accurately represents the applicant's health status. They believe that older data should not be used, and that a 60-day limit would make it unnecessary to shorten certification periods based on the age of data.

After an extensive review of these suggestions, as well as other materials pertinent to this issue, the Department proposes to allow only required intake medical data (i.e., bloodwork, weight and height or length) up to 60 days old to be used in determining nutritional risk. Certification periods will not be shortened based on the age of the data. This provides for a uniform, equitable certification process. The 60-day period allows for referral data to reach a WIC clinic within a reasonable time limit, while assuring that the data permits an accurate assessment of current health status. The Department proposes that the 60-day period run from the date of application. This would be more practical than allowing the period to run from the date of certification, since the date of application would be known at the time the medical data is evaluated, whereas the date of certification would not then be known.

Following publication of the final rule, concern was also expressed about the requirement in § 246.7(f)(4) that the mandatory intake medical data be "reflective of the applicant's categorical status at the time of certification," by which the Department intended that data can be used only if taken while the applicant is in the category—pregnant woman. infant, etc.—that the person occupied at the time of certification. Some States have argued that only the changes from nonpregnant status to pregnancy, and from pregnancy to postpartum, are dramatic and abrupt enough to justify this restrictive requirement. For this reason, and because the 60-day limit would be generally effective in ensuring that medical data accurately reflects the applicant's current status, the Department proposes. in place of the current provision, to require that data used to certify pregnant women be taken during their pregnancy, and to prohibit the use of data taken during pregnancy to certify postpartum women.

2. Vendor Sanctions (§§ 246.12(f) and 246.12(k)

A number of State agencies have requested that Program regulations be amended to allow a WIC State agency to disqualify a vendor sanctioned through a Civil Money Penalty in the Food Stamp Program. Section 278.6(f) of the Food Stamp Program regulations states that FNS may impose a Civil Money Penalty as a sanction in lieu of disqualification "only when the firm subject to a disqualification is selling a substantial variety of staple food items, and the firm's disqualification would cause hardship to food stamp households because there is no other authorized retail food store in the area selling as large a variety of staple food items at comparable prices."

In the past, the WIC Program has not allowed State agencies to disqualify vendors solely because they have been assessed a Food Stamp Civil Money Penalty based on the Department's concern for participant hardship. If it had been determined that removal of a vendor from the Food Stamp Program would create a hardship for food stamp recipients, the Department believed that disqualifying this vendor from WIC would inevitably cause a concomitant hardship for WIC recipients who reside in the same area.

However, hardship to WIC participants does not always arise in such situations. Many State agencies have asserted that the composition and distribution of the WIC population in an area may differ significantly from that of food stamp recipients. In addition, Civil Money Penalties are fines generated by violations serious enough to warrant a disqualification from the Food Stamp Program. Currently, WIC regulations allow State agencies the option of disqualifying a vendor from the program if that vendor is disqualified from the Food Stamp Program. Subject to specific controls which ensure participants reasonable access to WIC vendors, the Department proposes to allow State agencies to disqualify a vendor from the WIC Program in response to a Civil Money Penalty in the Food Stamp Program. Under the proposed rule, States would not be allowed to disqualify a vendor from WIC based on a Civil Money Penalty unless the State documents that disqualification of the vendor from WIC would not create undue hardship for WIC participants. Undue hardship would result if, after disqualification. WIC participants in the area would no longer have sufficient opportunity to obtain supplemental foods. The documentation requirement would carry out the mandate in current regulations that the State agency "consider whether the disqualification would create undue hardship for participants" (§ 246.12(k)(1)(iv)). In addition, State agencies exercising this option would be required to include notification in their vendor agreement.

The proposed rule would not be unduly harsh with regard to retailers. Food Stamp Program participants often account for a major share of retail food vendors' business. However, this is not generally true of the smaller WIC Program. Therefore, disqualification from WIC is less likely to have critically adverse effects on retailers than disqualification from the Food Stamp Program. The long-established regulatory authority of WIC State agencies to limit participation of vendors to the number needed for program purposes, and to select the most viable from among applicants (§ 246.12(e)), has been accepted by the vendor community. Both this established limitation authority and the proposed disqualification provision implement the principle of quality control through selectivity. The Department believes that this proposal serves the best interests of the WIC Program in a manner consistent with fair and reasonable treatment of vendors.

As with any adverse action, the State agency decision to disqualify the vendor who has received a Food Stamp Civil Money Penalty is subject to appeal. Therefore, a high standard of documentation must be upheld.

When making disqualification determinations on this basis, demographic information, volume of WIC sales and other indicators of the need for, and utilization of, WIC vendors may have to be considered.

3. Confidentiality (§§ 246.26(d) and 246.7(h))

A number of questions have recently been raised by States regarding the confidentiality provision in the WIC Program. This provision currently prohibits the disclosure of information obtained from applicants and participants to persons not directly connected with WIC Program administration or enforcement or the Comptroller General of the United States. Based on this provision, the States have had a variety of concerns regarding their responsibility to safeguard, and their authority to share,

information collected on applicants and participants by the WIC Program. Some States have expressed interest in the exchange of participant data and other information between the WIC Program and other State health department programs. Many wish to encourage such exchanges to avoid duplication of administrative efforts, such as the taking and storing of income information, necessary when more than one program serves the same population. The exchange could facilitate coordination of all health and social service needs of an individual, which would be consistent with efforts to coordinate activities between programs and thereby increase efficiency. Also, local WIC agencies could provide referrals to other health and social service programs, so that the latter could initiate contact with WIC participants for the purpose of program outreach. In that way, WIC participants could learn of other programs for which they are categorically eligible.

This proposal, therefore, authorizes disclosure of information provided by WIC applicants and participants, at the discretion of the chief State health officer, to public health or welfare programs that serve persons categorially eligible for the WIC Program. In Indian State agencies, approval would be granted by the governing authority. The State agency would be required to execute a written agreement with any agency to which it discloses information specifying the purposes of the disclosure and containing the receiving agency's assurance that it will not, in turn, disclose this information. States choosing to exercise this optional disclosure would be required to include, in their certification forms to be signed by the applicant, a statement which acknowledges that the information may be released to approved health or welfare agencies.

List of Subjects in 7 CFR Part 246

Food assistance programs, Food donations, Grant programs-social programs, Indians, Infants and children, Maternal and child health, Nutrition, Nutrition education, Public assistance programs, WIC, Women.

For the reasons set out in the preamble, 7 CFR Part 246 is proposed to be amended, as follows:

PART 246—SPECIAL SUPPLEMENTAL FOOD PROGRAMS FOR WOMEN, INFANTS AND CHILDREN

1. The authority citation for Part 246 continues to read as follows:

Authority: Sec. 341–353, Pub. L. 99–500 and 99–591, 100 Stat. 1783 and 3341 (42 U.S.C. 1786); sec. 3, Pub. L. 95–627, 92 Stat. 3611 (42 U.S.C. 1786); sec. 203, Pub. L. 96–499, 94 Stat. 2599; sec. 815, Pub. L. 97–35, 95 Stat. 521.

2. In § 246.7, paragraph (f)(4) is revised, and a new paragraph (h)(9) is added to read as follows:

§ 246.7 Certification of participants.

* * * * *

(f) * * *

(4) Data on bloodwork, weight and height or length that are collected not more than 60 days prior to application for program participation may be used in nutritional risk determinations, except that data used to determine the risk status of pregnant women shall be taken during their pregnancy, and data used to determine the risk of postpartum women shall be taken after the termination of their pregnancy.

* * * * *

(h) * * *

(9) In States exercising the authority to disclose information pursuant to § 246.26(d)(2), a statement, to be added to the statement required under paragraph 246.7(h)(8) of this section, acknowledging that the chief State health officer (or in the case of Indian State agencies, the governing authority) may authorize disclosure to representatives of public organizations, designated by such chief State health officer or governing authority, which administer health or welfare programs that serve persons categorically eligible for the WIC Program.

* * * * *

3. Section 246.12 is amended by revising paragraph (f)(3), redesignating paragraph (k)(1)(iv) as paragraphs (k)(1)(v), and adding a new paragraph (k)(1)(iv) to read as follows:

§ 246.12 Food delivery systems.

* * * * *

(f) * * *

(3) Other provisions shall be added to the contracts or agreements to implement State agency options in paragraphs (k)(1)(iii), (k)(1)(iv), and (s)(5)(iv) of this section.

* * * * *

(k) * * *

(1) * * *

(iv) The State agency may disqualify a vendor who has been assessed a Civil Money Penalty in the Food Stamp Program in lieu of disqualification, as provided in 7 CFR 278.6, only if the State agency:

(A) Documents that any such disqualification will not create undue hardship for participants; and

(B) Includes notification that it will take such disqualification action in its vendor agreement, in accordance with paragraph (f)(3) of this section.

* * * * *

4. In § 246.26, paragraph (d) is revised to read as follows:

§ 246.26 Other provisions.

* * * * *

(d) *Confidentiality.* The State agency shall restrict the use or disclosure of information obtained from Program applicants and participants to:

(1) Persons directly connected with the administration or enforcement of the Program, including persons investigating or prosecuting violations in the WIC Program under Federal, State or local authority;

(2) Representatives of public organizations designated by the chief State health officer (or, in the case of Indian State agencies, the governing authority) which administer health or welfare programs that serve persons categorically eligible for the WIC Program. The State agency shall execute a written agreement with each such designated organization:

(i) Specifying the purposes for which the receiving agency may employ WIC Program information,

(ii) Containing the receiving agency's assurance that WIC Program information will be used only for designated purposes, and

(iii) Containing the receiving agency's assurance that it will not, in turn, disclose the information to a third party; and

(3) The Comptroller General of the United States for audit and examination authorized by law.

Date: September 11, 1987.

Anna Kondratas,

Administrator, Food and Nutrition Service.

[FR Doc. 87–21554 Filed 9–17–87; 8:45 am]

BILLING CODE 3410–30–M

Federal Crop Insurance Corporation

7 CFR Part 401

[Amdt. No. 5; Doc. No. 4631S]

General Crop Insurance Regulations; Texas Citrus Endorsement

AGENCY: Federal Crop Insurance Corporation, USDA.

ACTION: Proposed rule.

SUMMARY: The Federal Crop Insurance Corporation (FCIC) proposes to amend the General Crop Insurance Regulations (7 CFR Part 401), effective for the 1989 crop year, by adding a new section, 7

CFR 401.115 to be known as the Texas Citrus Endorsement. The intended effect of this rule is to provide the regulations and endorsement containing the provisions of crop insurance protection on Texas citrus crops in an endorsement to the General Crop Insurance policy which contains the standard terms and conditions common to most corps. The authority for the promulgation of this rule is contained in the Federal Crop Insurance Act, as amended.

DATE: Written comments, data, and opinions on this proposed rule must be submitted not later than October 19, 1987, to be sure of consideration.

ADDRESS: Written comments on this proposed rule should be sent to Peter F. Cole, Office of the Manager, Federal Crop Insurance Corporation, Room 4090, South Building, U.S. Department of Agriculture, Washington, DC, 20250.

FOR FURTHER INFORMATION CONTACT: Peter F. Cole, Secretary, Federal Crop Insurance Corporation, U.S. Department of Agriculture, Washington, DC 20250, telephone (202) 447-3325.

SUPPLEMENTARY INFORMATION: /This action has been reviewed under USDA procedures established by Departmental Regulation 1512.-1. This action constitutes a review as to the need, currency, clarity, and effectiveness of these regulations under those procedures. The sunset review date established for these regulations is established as August 1, 1992.

E. Ray Fosse, Manager, FCIC, (1) has determined that this action is not a major rule as defined by Executive Order 12291 because it will not result in: (a) An annual effect on the economy of $100 million or more; (b) major increases in costs or prices for consumers, individual industries, Federal, State, or local governments, or a geographical region; or (c) significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of U.S.-based enterprises to compete with foreign-based enterprises in domestic or export markets; and (2) certifies that this action will not increase the federal paperwork burden for individuals, small businesses, and other persons.

This action is exempt from the provisions of the Regulatory Flexibility Act; therefore, no Regulatory Flexibility Analysis was prepared.

This program is listed in the Catalog of Federal Domestic Assistance under No. 10.450.

This program is not subject to the provisions of Executive Order 12372 which requires intergovernmental consultation with State and local officials. See the Notice related to 7 CFR Part 3015, Subpart V, published at 28 FR 29115, June 24, 1983.

This action is not expected to have any significant impact on the quality of the human environment, health, and safety. Therefore, neither an Environmental Assessment nor an Environmental Impact Statement is needed.

FCIC herewith proposes to add to the General Crop Insurance Regulations (7 CFR Part 401), a new section to be known as 7 CFR 401.115, the Texas Citrus Endorsement, effective for the 1989 and succeeding crop years, to provide the provisions for insuring citrus.

Upon publication of 7 CFR 401.115 as a final rule, the provisions for insuring citrus contained therein will supersede those provisions contained in 7 CFR Part 413, the Texas Citrus Crop Insurance Regulations, effective with the beginning of the 1989 crop year. The present policy contained in 7 CFR Part 413 will be terminated at the end of the 1988 crop year and later removed and reserved. FCIC will propose to amend the title of 7 CFR Part 413 by separate document so that the provisions therein are effective only through the 1988 crop year.

Minor editorial changes have been made to improve compatibility with the new general crop insurance policy. These changes do not affect meaning or intent of the provisions. In adding the new Texas Citrus Endorsement to 7 CFR Part 401, FCIC is proposing other changes in the Provisions for insuring citrus. FCIC itemizes such proposed changes as follows:

1. Section 1—Move Rio Red grapefruit from Type III designation to the Star Ruby Type IV designation. This change is made to combine varieties with similar characteristics.

2. Section 2—Replace "cyclone" with "excess wind" as an insurable cause of loss. This change is made to insure shear wind of a defined force which more accurately reflects the crop hazard in the area.

3. Section 4—Lengthen the end of the first stage from April 1 to May 1 to allow additional fruit development and to better estimate the potential in determining the second stage guarantee.

4. Section 7—Add unit definition guidelines and add a clause to specify that division of units may result in the insured paying additional premium for guideline unit division in accordance with actuarial studies that show an increased risk when units are divided.

5. Section 8—Add a provision to require notice of damage within 72 hours if the cause of loss is excessive moisture. Because evidence of damage from excess moisture is difficult to appraise if too much time passes, this change will better enable FCIC to adjust the loss.

6. Section 12—Add definitions of "excess moisture," "excess wind," and "yield limit." Remove the "cyclone" definition. Replace the definition of "contiguous land" with "non-contiguous land." Non-contiguous land is used as a criterion for unit division.

FCIC is soliciting public comment on this proposed rule for 30 days following publication in the **Federal Register.** Written comments received pursuant to this notice will be available for public inspection in the Office of the Manager, Federal Crop Insurance Corporation, Room 4090, South Building, U.S. Department of Agriculture, Washington, DC 20250, during regular business hours, Monday through Friday.

List of Subjects in 7 CFR Part 401

General crop insurance regulations, Texas citrus endorsement.

Proposed Rule

Accordingly, pursuant to the authority contained in the Federal Crop Insurance Act, as amended (7 U.S.C. 5101 *et seq.*), the Federal Crop Insurance Corporation hereby proposes to amend the General Crop Insurance Regulations (7 CFR Part 401), effective for the 1989 and succeeding crop years, in the following instances:

PART 401—[AMENDED]

1. The authority citation for 7 CFR Part 401 continues to read as follows:

Authority: Secs. 506, 516, Pub. L. 75-430, 52 Stat. 73, 77, as amended (7 U.S.C. 1506, 1516).

2. 7 CFR Part 401 is amended to add a new section to be known as 7 CFR 401.115 Texas Citrus Endorsement, effective for the 1989 and Succeeding Crop Years, to read as follows:

§ 401.115 Texas Citrus Endorsement

The provisions of the Texas Citrus Crop Insurance Endorsement for the 1989 and subsequent crop year are as follows:

Federal Crop Insurance Corporation Texas Citrus Endorsement

1. Insured crop.

a. The crop insured will be any of the following citrus types you elect:

Type I Early and mid-season oranges;

Type II Late oranges (including temples);

Type III Grapefruit, except types IV and V;

Type IV Rio Red and Star Ruby grapefruit; or

Type V Ruby Red grapefruit.

b. In addition to the citrus not insurable in section 2 of the general crop insurance policy, we do not insure any citrus:

(1) Which is not irrigated;

(2) If the producing trees have not produced an average yield of three tons of oranges or grapefruit per acre the previous year unless the trees are inspected by us and we agree, in writing, to the amount of insurance coverage;

(3) If acceptable production records of at least the previous crop year are not available; or

(4) Which we inspect and consider not acceptable.

2. Causes of loss.

a. The insurance provided is against unavoidable loss of production resulting from the following causes occurring within the insurance period:

(1) Freeze;
(2) Frost;
(3) Excess moisture;
(4) Hail;
(5) Fire;
(6) Tornado;
(7) Excess wind;
(8) Wildlife;
(9) Failure of the irrigation water supply; or
(10) Direct Mediterranean Fruit Fly damage;

unless those causes are excepted, excluded, or limited by the actuarial table or section 9 of the general crop insurance policy.

b. In addition to the causes of loss not insured against in section 1 of the general crop insurance policy, we will not insure against any loss of production due to fire if weeds and other forms of undergrowth have not been controlled or tree pruning debris has not been removed from the grove. We also specifically do not insure against the inability to market the fruit as a direct result of quarantine, boycott, or refusal of any entity to accept production unless production has actual physical damage due to a cause specified in subsection 2.a.

3. Report of acreage, share, type, and practice (acreage report).

a. In addition to the information required in section 3 of the general crop insurance policy, you must report the crop type.

b. The date by which you must annually submit the acreage report is June 30 of the calendar year the insured crop normally blooms.

4. Production reporting and production guarantees.

a. In addition to the production report required in section 4 of the general crop insurance policy, you must report:

(1) The number of bearing trees; and

(2) The number of trees topped, hedged, or pruned.

b. In lieu of the method described in section 4 of the general crop insurance policy to determine the yield used to compute your production guarantee, your second stage (final stage) production guarantee will be based on our appraisal of current crop potential.

c. The production guarantees per acre are progressive by states and increase, at specified intervals, to the final stage production guarantees. The stages and production guarantees are:

(1) First state is from the date insurance attaches until May 1 of the calendar year of normal bloom, the production guarantee will be:

(a) Forty percent (40%) of the yield used to determine the previous year's production guarantee multiplied by the percentage of yield (coverage level) for the current crop year if you had insurance for the previous crop year; or

(b) Forty percent (40%) of your previous production per acre multiplied by the percentage of yield (coverage level) for the current crop year if you did not have insurance for the previous crop year.

(2) Second stage (final stage) is from May 1 of the calendar year of normal bloom until the end of the insurance period, the production guarantee is the final stage production guarantee.

d. Any acreage of citrus damaged to the extent that growers in the area would not further care for the citrus, will be deemed to have been destroyed even though the citrus continues to be cared for. The production guarantee for such acreage will be the guarantee for the stage in which such damage occurs.

5. Annual premium.

The annual premium amount is computed:

a. For citrus damaged in the first stage to the extent that growers in the area would not further care for the citrus, by multiplying the yield used to determine the previous year production guarantee times the current crop year coverage level, times the price election, times the premium rate, times the insured acreage, times your share on the date insurance attaches (if insurance is not in effect the previous crop year, the previous production per acre will be used in place of the yield used to determine the previous year production guarantee).

b. If subsection 5.a. does not apply, by multiplying the second stage production guarantee times the price election, times the premium rate, times the insured acreage, times your share on the date insurance attaches.

6. Insurance period.

In lieu of section 7 of the General Crop Insurance Policy, insurance attaches on December 1 prior to the calendar year of normal bloom except if we accept your application for insurance after November 30, insurance will attach on the thirtieth (30th) day after you sign and submit a properly completed application. Insurance will not attach to any acreage inspected by us and determined to be unacceptable. Insurance ends on each unit at the earliest of:

(1) Total destruction of the citrus;
(2) Harvest;
(3) The date harvest would normally start on any acreage which will not be harvested;
(4) Final adjustment of a loss; or
(5) May 31 of the calendar year following the normal year of bloom.

7. Unit division.

a. Citrus acreage that would otherwise be one unit, as defined in section 17 of the general crop insurance policy, may be divided by citrus type.

b. Citrus acreage that would otherwise be one unit as defined in section 17 of the general crop insurance policy and subsection 7.a. above may be divided into more than one unit if you agree to pay additional premium as required by the actuarial table and if, for each proposed unit, you maintain written, verifiable records of planted acreage and harvested production for at least the previous crop year. The acreage planted to insured citrus must be located in separate legally identifiable sections, the boundaries of the sections must be clearly identified, the insured acreage must be easily determined, and each unit must be non-contiguous. If you have a loss on any unit, production records for all harvested units must be provided. Production that is commingled between optional units will cause those units be to combined.

8. Notice of damage or loss.

In addition to the notices required in section 8 of the general crop insurance policy, if the insured citrus is damaged by excess moisture, you must give us notice of such damage within seventy-two (72) hours of occurrence.

9. Claim for indemnity.

a. The indemnity will be determined on each unit by:

(1) Multiplying the insured acreage by the production guarantee for the applicable stage (see subsection 4.c.);

(2) Subtracting therefrom the total production of citrus to be counted (see subsection 9.e.);

(3) Multiplying the remainder by the price election; and

(4) Multiplying this result by your share.

b. The total production to be counted for a unit will include all harvested and appraised production.

(1) Any citrus production which is not marketed as fresh fruit and due to insurable causes does not contain 120 or more gallons of juice per ton, will be adjusted by:

(a) Dividing the gallons of juice per ton obtained from the damaged citrus by 120; and

(b) Multiplying the result by the number of tons of such citrus. If records of actual juice content are not available, an average juice content will be used.

(2) Where the actuarial table provides for and you elect the fresh fruit option, citrus production which is not marketable as fresh fruit due to insurable causes will be adjusted by:

(a) Dividing the value per ton of the damaged citrus by the price of undamaged citrus; and

(b) Multiplying the result by the number of tons of such citrus.

The applicable price for undamaged citrus will be the local market price the week before damage occurred, or the contract price if the contract was entered into between the producer and buyer before damage occurred.

(3) Any production will be considered marketed or marketable as fresh fruit unless due to insurable causes, such production was not marketed as fresh fruit.

(4) In the absence of acceptable records to determine the disposition of harvested citrus, we may elect to determine such disposition and the amount of such production to be counted for the unit.

(5) Any citrus on the ground which is not picked up and marketed will be considered lost if the damage was due to an insured cause.

(6) Appraised production to be counted will include:

(a) Unharvested production, and potential production lost due to uninsured causes and

failure to follow recognized good citrus farming practices; and

(b) Not less than the guarantee for any acreage which is abandoned, damaged solely by an uninsured cause or destroyed by you without our consent.

(7) Any appraisal we have made on insured acreage will be considered production to count unless such appraised production is:

(a) Further damaged by an insured cause and is reappraised by us; or

(b) Harvested.

10. Cancellation and termination dates.

The cancellation and termination dates are November 30 prior to the calendar year of the normal bloom.

11. Contract changes.

The date by which contract changes will be available in your service office is August 31 preceding the cancellation date.

12. Meaning of terms.

a. "Crop year" means the period beginning with the date insurance attaches to the citrus crop and extending through normal harvest time, and will be designated by the calendar year following the year in which the bloom is normally set.

b. "Direct Mediterranean fruit fly damage" means the actual physical damage to the citrus on the unit which causes such citrus to be unmarketable and will not include inability to market such citrus as a direct result of a quarantine, boycott, or refusal to accept the citrus by any entity without regard to actual physical damage to such citrus.

c. "Excess moisture" means more than 20 inches of precipitation on the grove within a 72-hour period.

d. "Excess wind" means a natural movement of air which has sustained speeds in excess of 58 miles per hour recorded at the U.S. Weather Service reporting station nearest to the crop at the time of crop damage.

e. "Freeze" means the condition that exists when air temperatures over a widespread area remain at or below 32 degrees Fahrenheit.

f. "Frost" means the condition that exists when the air temperature around the tree falls to 32 degrees Fahrenheit or below.

g. "Harvest" means the severance of mature citrus from the tree either by pulling, picking, or by mechanical or chemical means, or picking up the marketable fruit from the ground.

h. "Hedged" means to cut back the side branches for better or more fruitful growth.

i. "Non-contiguous land" means land which is not touching at any point. Land which is separated by only a public or private right-of-way will be considered to be touching (contiguous).

j. "Topped" means to cut back the upper branches for better or more fruitful growth.

k. "Yield limit" means a yield level established by us based on citrus type and tree age.

Done in Washington, DC, on September 14, 1987.

E. Ray Fosse,

Manager, Federal Crop Insurance Corporation.

[FR Doc. 87-21589 Filed 9-17-87; 8:45 am]

BILLING CODE 3410-08-M

7 CFR Part 424

[Amdt. No. 2; Doc. No. 4725S]

Rice Crop Insurance Regulations

AGENCY: Federal Crop Insurance Corporation, USDA.

ACTION: Proposed rule.

SUMMARY: The Federal Crop Insurance Corporation (FCIC) proposes to amend the Rice Crop Insurance Regulations (7 CFR Part 424), effective for the 1988 crop year. The intended effect of this proposed rule is to maintain the effectiveness of the present Rice Crop Insurance Regulations only through the 1987 crop year. It is proposed in a separate document that the provisions currently contained in this part will be issued as an endorsement to the newly proposed 7 CFR Part 401, General Crop Insurance Regulations (§ 401.120, Rice Endorsement), effective for the 1988 and succeeding crop years. 7 CFR Part 401 will be a standard set of regulations and a master policy for insuring most crops authorized under the provisions of the Federal Crop Insurance Act, as amended, and will substantially reduce: (1) The time involved in amendment or revision; (2) the necessity of the present repetitious review process; and (3) the volume of paperwork processed by FCIC. The authority for the promulgation of this rule is the Federal Crop Insurance Act, as amended.

DATE: Written comments, data, and opinions on this proposed rule must be submitted not later than October 19, 1987, to be sure of consideration.

ADDRESS: Written comments, data, and opinions on this proposed rule should be sent to Peter F. Cole, Office of the Manager, Federal Crop Insurance Corporation, Room 4090, South Building, U.S. Department of Agriculture, Washington, DC 20250. Written comments will be available for public inspection in the Office of the Manager, Room 4090, South Building, U.S. Department of Agriculture, Washington, DC during regular business hours, Monday through Friday.

FOR FURTHER INFORMATION CONTACT: Peter F. Cole, Secretary, Federal Crop Insurance Corporation, U.S. Department of Agriculture, Washington, DC, 20250, telephone (202) 447-3325.

SUPPLEMENTARY INFORMATION: This action has been reviewed under USDA procedures established by Departmental Regulation 1512-1. This action does not constitute a review as to the need, currency, clarity, and effectiveness of these regulations under those procedures. The sunset review date established for these regulations is August 1, 1989.

E. Ray Fosse, Manager, FCIC, (1) has determined that this action is not a major rule as defined by Executive Order 12291 because it will not result in: (a) An annual effect on the economy of $100 million or more; (b) major increases in costs or prices for consumers, individual industries, Federal, State, or local governments, or a geographical region; or (c) significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of U.S.-based enterprises to compete with foreign-based enterprises in domestic or export markets; and (2) certifies that this action will not increase the Federal paperwork burden for individuals, small businesses, and other persons.

This action is exempt from the provisions of the Regulatory Flexibility Act; therefore, no Regulatory Flexibility Analysis was prepared.

This program is listed in the Catalog of Federal Domestic Assistance under No. 10.450.

This program is not subject to the provisions of Executive Order 12372 which requires intergovernmental consulation with State and local officials. See the Notice related to 7 CFR 3015, Subpart V, published at 48 FR 29115, June 24, 1983.

This action is not expected to have any significant impact on the quality of the human environment, health, and safety. Therefore, neither an Environmental Assessment nor an Environmental Impact Statement is needed.

Background

FCIC has published over 40 policies to cover insurance on that many different crops. Many of the regulations and policies contain identical language, which, if changed requires that over 40 different policies be changed, both in the Code of Federal Regulations (CFR) and the printed policy language. This repetition of effort is both inefficient and expensive. FCIC, therefore, has published in 7 CFR Part 401, one set of regulations and one master policy to contain that language which is identical in most of the policies and regulations.

As revisions on individual policies are necessary, FCIC will publish a "crop endorsement" which will contain the language of the policy unique to that crop, and any exceptions to the master policy language necessary for the crop. When an endorsement is published as a section to Part 401, effective for a subsequent crop year, the present policy contained in a separate part of Chapter

IV is terminated at the end of the crop year then in effect.

In order to clearly establish that 7 CFR Part 424 will be effective only through the end of the 1987 crop year, FCIC herein proposes to amend the subpart heading of these regulations to specify that such will be the case.

It is proposed that the new Rice Endorsement will be published as an endorsement to 7 CFR 401 (§ 401.120, Rice Endorsement), and become effective for the 1988 and succeeding crop years. Upon final publication, the provisions of the Rice Crop Insurance Regulations, now contained in 7 CFR Part 424, would be superseded. Therefore, FCIC proposes to amend the subpart heading to provide that 7 CFR Part 424 be effective for the 1986 and 1987 crop years only.

List of Subjects in 7 CFR Part 424

Crop insurance, Rice.

Proposed Rule

Accordingly, pursuant to the authority contained in the Rice Crop Insurance Act, as amended (7 U.S.C. 1501 et seq.), the Federal Crop Insurance Corporation proposes to amend the Subpart heading to the Rice Crop Insurance Regulations (7 CFR Part 424), as follows:

PART 424—[AMENDED]

1. The authority citation for 7 CFR Part 424 continues to read as follows:

Authority: Secs. 506, 516, Pub. L. 75–430, 52 Stat. 73, 77, as amended (7 U.S.C. 1506, 1516).

2. The subpart heading in 7 CFR Part 424 is revised to read as follows:

Subpart—Regulations For The 1986 and 1987 Crop Years

Done in Washington, DC, on September 14, 1987.

E. Ray Fosse,

Manager, Federal Crop Insurance Corporation.

[FR Doc. 87-21588 Filed 9-17-87; 8:45 am]

BILLING CODE 3410-08-M

---

7 CFR Part 448

[Amdt. No. 1; Doc. No. 4730S]

ELS Cotton Crop Insurance Regulations

AGENCY: Federal Crop Insurance Corporation, USDA.

ACTION: Proposed rule.

SUMMARY: The Federal Crop Insurance Corporation (FCIC) proposes to amend the ELS Cotton Crop Insurance Regulations (7 CFR Part 448), effective for the 1988 crop year. The intended effect of this proposed rule is to maintain the effectiveness of the present ELS Cotton Crop Insurance Regulations only through the 1987 crop year. It is proposed in a separate document that the provisions currently contained in this part will be issued as an endorsement to the newly proposed 7 CFR Part 401, General Crop Insurance Regulations (§ 401.121, ELS Cotton Endorsement), effective for the 1988 and succeeding crop years. 7 CFR Part 401 will be a standard set of regulations and a master policy for insuring most crops authorized under the provisions of the Federal Crop Insurance Act, as amended, and will substantially reduce: (1) The time involved in amendment or revision; (2) the necessity of the present repetitious review process; and (3) the volume of paperwork processed by FCIC. The authority for the promulgation of this rule is the Federal Crop Insurance Act, as amended.

DATE: Written comments, data, and opinions on this proposed rule must be submitted not later than October 19, 1987, to be sure of consideration.

ADDRESS: Written comments, data, and opinions on this proposed rule should be sent to Peter F. Cole, Office of the Manager, Federal Crop Insurance Corporation, Room 4090, South Building, U.S. Department of Agriculture, Washington, DC 20250. Written comments will be available for public inspection in the Office of the Manager, Room 4090, South Building, U.S. Department of Agriculture, Washington, DC during regular business hours, Monday through Friday.

FOR FURTHER INFORMATION CONTACT: Peter F. Cole, Secretary, Federal Crop Insurance Corporation, U.S. Department of Agriculture, Washington, DC, 20250, telephone (202) 447–3325.

SUPPLEMENTARY INFORMATION: This action has been reviewed under USDA procedures established by Departmental Regulation 1512–1. This action does not constitute a review as to the need, currency, clarity, and effectiveness of these regulations under those procedures. The sunset review date established for these regulations is April 1, 1989.

E. Ray Fosse, Manager, FCIC, (1) has determined that this action is not a major rule as defined by Executive Order 12291 because it will not result in: (a) An annual effect on the economy of $100 million or more; (b) major increases in costs or prices for consumers, individual industries, Federal, State, or local governments, or a geographical region; or (c) significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of U.S.-based enterprises to compete with foreign-based enterprises in domestic or export markets; and (2) certifies that this action will not increase the Federal paperwork burden for individuals, small businesses, and other persons.

This action is exempt from the provisions of the Regulatory Flexibility Act; therefore, no Regulatory Flexibility Analysis was prepared.

This program is listed in the Catalog of Federal Domestic Assistance under No. 10.450.

This program is not subject to the provisions of Executive Order 12372 which requires intergovernmental consultation with State and local officials. See the Notice related to 7 CFR Part 3015, Subpart V, published at 48 FR 29115, June 24, 1983.

This action is not expected to have any significant impact on the quality of the human environment, health, and safety. Therefore, neither an Environmental Assessment nor an Environmental Impact Statement is needed.

Background

FCIC has published over 40 policies to cover insurance on that many different crops. Many of the regulations and policies contain identical language, which, if changed requires that over 40 different policies be changed, both in the Code of Federal Regulations (CFR) and the printed policy language. This repetition of effort is both inefficient and expensive. FCIC, therefore, has published in 7 CFR Part 401, one set of regulations and one master policy to contain that language which is identical in most of the policies and regulations.

As revisions on individual policies are necessary, FCIC will publish a "crop endorsement" which will contain the language of the policy unqiue to that crop, and any exceptions to the master policy language necessary for that crop. When an endorsement is published as a section to Part 401, effective for a subsequent crop year, the present policy contained in a separate part of Chapter IV is terminated at the end of the crop year then in effect.

In order to clearly establish that 7 CFR Part 448 will be effective only through the end of the 1987 crop year, FCIC herein proposes to amend the subpart heading of these regulations to specify that such will be the case.

It is proposed that the new ELS Cotton Endorsement will be published as an endorsement to 7 CFR Part 401 (§ 401.121, ELS Cotton Endorsement), and become effective for the 1988 and succeeding crop years. Upon final

publication, the provisions of the ELS Cotton Crop Insurance Regulations, now contained in 7 CFR Part 448, would be superseded. Therefore, FCIC proposes to amend the subpart heading to provide that 7 CFR Part 448 be effective for the 1986 and 1987 crop years only.

List of Subjects in 7 CFR Part 448

Crop insurance, ELS cotton.

Proposed Rule

Accordingly, pursuant to the authority contained in the Federal Crop Insurance Act, as amended (7 U.S.C. 1501 *et seq.*), the Federal Crop Insurance Corporation proposes to amend the Subpart heading to the ELS Cotton Crop Insurance Regulations (7 CFR Part 448), as follows:

PART 448—[AMENDED]

1. The authority citation for 7 CFR Part 448 continues to read as follows:

Authority: Secs. 506, 516, Pub. L. 75-430, 52 Stat. 73, 77, as amended (7 U.S.C. 1506, 1516).

2. The subpart heading in 7 CFR Part 448 is revised to read as follows:

Subpart—Regulations for the 1986 and 1987 Crop Years

Done in Washington, DC, on September 14, 1987.

E. Ray Fosse,

Manager, Federal Crop Insurance Corporation.

[FR Doc. 87-21587 Filed 9-17-87; 8:45 am]

BILLING CODE 3410-08-M

DEPARTMENT OF JUSTICE

Immigration and Naturalization Service

8 CFR Part 1

[INS Number: 87-1017]

Definitions, Applications, Petitions, Motions and Appeals for Benefits Under The Immigration and Nationality Act; Withdrawal of Proposed Rule

AGENCY: Immigration and Naturalization Service, Justice.

ACTION: Proposed rule; withdrawal.

SUMMARY: On May 15, 1987 the Immigration and Naturalization Service proposed to amend the definition of the term "day" as contained in Chapter I of Title 8, Code of Federal Regulations, Part 1 (52 FR 19733). Upon further consideration, it has been determined that the proposed rulemaking is superfluous, since a change in definition had already occurred in a final rule regarding conforming regulations to the Rules of Procedure for Immigration Judge proceedings published January 29, 1987 (52 FR 2931). Accordingly, the proposed rulemaking is hereby withdrawn.

FOR FURTHER INFORMATION CONTACT: Michael L. Shaul, Senior Immigration Examiner, Immigration and Naturalization Service, 425 I Street, NW., Washington, DC 20536, Telephone: (202) 633-3946.

Dated: August 12, 1987.

Richard E. Norton,

Associate Commissioner, Examinations, Immigration and Naturalization Service.

[FR Doc. 87-21598 Filed 9-17-87; 8:45 am]

BILLING CODE 4410-10-M

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

9 CFR Part 92

[Docket No. 86-089]

Vaccinating Birds in Quarantine

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Proposed rule.

SUMMARY: We propose to permit birds in privately operated commercial bird quarantine facilities to be vaccinated against certain diseases by use of certain Veterinary Services-licensed vaccines. Only licensed veterinarians under the direct supervision of a veterinarian employed by Veterinary Services would be authorized to vaccinate the birds in question. Available evidence indicates that this proposed vaccination would increase the survival rate of imported birds without interfering with procedures used to isolate Newcastle disease, avian influenza, and other hemagglutinating viruses of poultry.

DATE: Consideration will be given only to comments postmarked or received on or before November 17, 1987.

ADDRESSES: Send written comments to Steven B. Farbman, Assistant Director, Regulatory Coordination, APHIS, USDA, Room 728, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782. Please state that your comments refer to Docket Number 86-089. Comments received may be inspected at Room 728 of the Federal Building between 8 a.m. and 4:30 p.m., Monday through Friday, except holidays.

FOR FURTHER INFORMATION CONTACT: Harvey A. Kryder, Jr., Senior Staff Veterinarian, Import-Export and Emergency Planning Staff, VS, APHIS, USDA, Room 809, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782. 301-436-8695.

SUPPLEMENTARY INFORMATION: Regulations in 9 CFR Part 92 (referred to below as the regulations) prohibit the vaccination of imported birds before their release from privately operated commercial bird quarantine facilities. Testing and observing birds in quarantine enables Veterinary Services (VS) to identify carriers of communicable diseases of poultry and prevent them from entering the United States.

Exotic Newcastle disease, avian influenza, and other hemagglutinating viruses, primarily spread by imported birds, constitute major threats to U.S. birds and poultry. Until recently, veterinarians believed that vaccines might interfere with efforts to detect signs of these highy communicable hemagglutinating viruses. The current regulations evolved from the then-prevalent scientific view. Experience now indicates that certain vaccines do not interfere with the VS tests and procedures used to qualify birds to entry into the United States.

To reflect this develoment, we propose to amend the regulations to allow the use of certain VS-licensed vaccines. Veterinary Services issues licenses for biological products meeting VS standards of purity, safety, potency, and efficacy, as required in 9 CFR Chapter I, Subchapter E. On the basis of documentation submitted by veterinary biologics manufacturers during the VS licensing and approval period, and of information obtained by tests performed on currently licensed biologics, vaccines that have been demonstrated not to interfere with tests and procedures established to qualify birds for entry into the United States would be approved for use with birds in quarantine. Authority to approve vaccines that do not interfere with efforts to detect hemagglutinating viruses would rest with the Deputy Administrator, Veterinary Services. The Veterinary Services Import-Export Operations Staff would maintain, and provide upon request, a list of the vaccines approved for use in quarantine. The prohibition of vaccines now in effect would remain in force for all vaccines not specifically approved, including, but not limited to, vaccines for Newcastle disease, avian influenza, and other hemagglutinating viruses of poultry.

Only licensed veterinarians under the direct supervision of a veterinarian employed by Veterinary Services would be authorized to vaccinate birds in

quarantine. This would ensure that vaccines were administered properly.

By amending the regulations in this way, we would relinquish no control over the tests and procedures in quarantine facilities, established to protect birds and poultry in this country. The data now available indicates that the use of certain vaccines for birds in quarantine would not interfere with tests for exotic Newcastle disease, avian influenza, or other hemagglutinating viruses. Relaxing restrictions in this way should improve the survival rate of birds not otherwise succumbing to Newcastle disease, avian influenza, and other hemagglutinating viruses of poultry. Importers would benefit from reduced losses if their birds could be vaccinated against specific diseases during the quarantine period.

Executive Order 12291 and Regulatory Flexibility Act

We are issuing this proposed rule in conformance with Executive Order 12291, and we have determined that it is not a "major rule." Based on information compiled by the Department, we have determined that this proposed rule would have an effect on the economy of less than $100 million; would not cause a major increase in costs or prices for consumers, individual industries, federal, state or local government agencies, or geographic regions; and would not cause a significant adverse effect on competition, employment, investment, productivity, innovation, or the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

We expect only three or four large importing concerns with an expressed interest in vaccinating birds to be affected by this proposed rule. We therefore expect it to have no effect on small entities.

Under these circumstances, the Administrator of the Animal and Plant Health Inspection Service has determined that this action would not have a significant economic impact on a substantial number of small entities.

Paperwork Reduction Act

Information collection requirements contained in this document have been approved by the Office of Management and Budget (OMB) under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*) and have been assigned OMB control numbers 0579-.0040 and 0579-0060.

Executive Order 12372

This program/activity is listed in the Catalog of Federal Domestic Assistance under No. 10.025 and is subject to the provisions of Executive Order 12372, which requires intergovernmental consultation with state and local officials. (See 7 CFR Part 3015, Subpart V).

List of Subjects in 9 CFR Part 92

Animal diseases, Canada, Imports, Livestock and livestock products, Mexico, Poultry and poultry products, Quarantine, Transportation, Wildlife.

Accordingly, 9 CFR Part 92 would be amended to read as follows:

PART 92—IMPORTATION OF CERTAIN ANIMALS AND POULTRY AND CERTAIN ANIMAL AND POULTRY PRODUCTS; INSPECTION AND OTHER REQUIREMENTS FOR CERTAIN MEANS OF CONVEYANCE AND SHIPPING CONTAINERS THEREON

1. The authority citation for Part 92 would continue to read as follows:

Authority: 7 U.S.C. 1622; 19 U.S.C. 1306; 21 U.S.C. 102–105, 111, 134a, 134b, 134c, 134d, 134f, and 135; 7 CFR 2.17, 2.51, and 371.2(d).

2. Section 92.11 would be amended by revising paragraph (f)(3)(ii)(B) to read as follows:

§ 92.11 Quarantine requirements.

* * * * *

(f) * * *

(3) * * *

(ii) * * *

(B) The birds may be vaccinated during quarantine only with a vaccine that has been approved by the Deputy Administrator, Veterinary Services, and is administered by a licensed veterinarian under the direct supervision of a veterinarian employed by Veterinary Services. The Deputy Administrator, Veterinary Services, will approve a vaccine if:

(*1*) The vaccine is licensed by Veterinary Services in accordance with § 102.5 of this chapter; and

(*2*) The vaccine is not one that is used to prevent Newcastle disease, avian influenza, or any other hemagglutinating virus of poultry.[4]

* * * * *

§ 92.11 [Amended]

3. In § 92.11, footnotes 6, 7, 8, and 1 and the references to them would be redesignated 1, 2, 3, and 5, respectively.

Done in Washington, DC, this 15th day of September, 1987.

J.K. Atwell,

Deputy Administrator, Veterinary Services, Animal and Plant Health Inspection Service.

[FR Doc. 87-21633 Filed 9-17-87; 8:45 am]

BILLING CODE 3410-34-M

[4] A list of approved vaccines is available from the Import-Export Operations Staff, Veterinary Services, APHIS, USDA, Room 764, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782.

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Ch. I

[Summary Notice No. PR-87-8]

Petitions for Rulemaking, Summary of Petitions Received and Dispositions of Petitions Denied or Withdrawn

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of petitions for rulemaking and of dispositions of petitions denied or withdrawn.

SUMMARY: Pursuant to FAA's rulemaking provisions governing the application, processing, and disposition of petitions for rulemaking (14 CFR Part 11), this notice contains a summary of certain petitions requesting the initiation of rulemaking procedures for the amendment of specified provisions of the Federal Aviation Regulations and of denials or withdrawals of certain petitions previously received. The purpose of this notice is to improve the public's awareness of this aspect of FAA's regulatory activities. Neither publication of this notice nor the inclusion or omission of information in the summary is intended to affect the legal status of any petition or its final disposition.

DATES: Comments on petitions received must identify the petition docket number involved and be received on or before November 17, 1987.

ADDRESSES: Send comments on the petition in triplicate to: Federal Aviation Administration, Office of the Chief Counsel, Attn: Rules Docket (AGC-204), Petition Docket No. _____, 800 Independence Avenue, SW., Washington, DC 20591.

FOR FURTHER INFORMATION CONTACT: The petition, any comments received, and a copy of any final disposition are filed in the assigned regulatory docket and are available for examination in the Rules Docket (AGC-204), Room 916, FAA Headquarters Building (FOB-10A).

Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591; telephone (202) 267-3132.

This notice is published pursuant to paragraphs (b) and (f) of § 11.27 of Part 11 of the Federal Aviation Regulations (14 CFR Part 11).

Issued in Washington, DC on September 10, 1987.

Denise D. Hall,

Acting Manager, Program Management Staff.

PETITIONS FOR RULEMAKING

Docket No.	Petitioner	Description of the petition
25152	Frank J. Kelley.....	*Description of the petition:* Petitioner proposes to permit issuance of flight engineer certificates to those military flight engineers who are currently performing duties and have passed the FAA written examination. *Regulations affected:* 14 CFR Part 63. *Petitioner's reason for rule:* Petitioner states that there would be a substantial increase in the number of well trained personnel available for flight engineer duties. Petitioner states that this is necessary to correct the oversight of qualified military flight engineers when Part 63 was written and amended. Petitioner states that a minimum retraining time for the civilian employee would be a result since the military flight engineer would have already been performing the duties and would only have to be given differences training.

[FR Doc. 87-21646 Filed 9-17-87; 8:45 am]
BILLING CODE 4910-13-M

14 CFR Part 39

[Docket No. 87-NM-99-AD]

Airworthiness Directives; Fokker B.V. Model F28 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of Proposed Rulemaking (NPRM).

SUMMARY: This notice proposes an airworthiness directive (AD), applicable to Fokker B.V. Model F28 series airplanes, that would require inspection for cracks, and replacement, if necessary, of all cargo door fuselage mounted hinge lugs. This amendment is prompted by several reports that cracks have been discovered in the hinge lugs. This condition, if not corrected, could result in sudden decompression and loss of the cargo door.

DATE: Comments must be received no later than October 18, 1987.

ADDRESSES: Send comments on the proposal in duplicate to the Federal Aviation Administration, Northwest Mountain Region, Office of the Regional Counsel (Attention: ANM-103), Attention: Airworthiness Rules Docket No. 87-NM-99-AD, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168. The applicable service information may be obtained from Fokker Aircraft, 1199 North Fairfax Street, Alexandria, Virginia 22314. This information may be examined at the FAA, Northwest Mountain Region, 17900 Pacific Highway South, Seattle, Washington, or the Seattle Aircraft Certification Office, 9010 East Marginal Way South, Seattle, Washington.

FOR FURTHER INFORMATION CONTACT: Ms. Judy Golder, Standardization Branch, ANM-113; telephone (206) 431-1967. Mailing address: FAA, Northwest Mountain Region, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the regulatory docket number and be submitted in duplicate to the address specified above. All communications received on or before the closing date for comments specified above will be considered by the Administrator before taking action on the proposed rule. The proposals contained in this Notice may be changed in light of the comments received. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA-public contact concerned with the substance of this proposal will be filed in the Rules Docket.

Availability of NPRM

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the FAA, Northwest Mountain Region, Office of the Regional Counsel (Attention: ANM-103), Attention: Airworthiness Rules Docket No. 87-NM-99-AD, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168.

Discussion

The Ministrie van Verkeer en Waterstaat, Rijksluchtvaartdienst (RLD), the Civil Aviation Authority of the Netherlands, has, in accordance with existing provisions of a bilateral airworthiness agreement, notified the FAA of an unsafe condition, which may exist or develop on Fokker Model F-28 airplanes. It has been reported that cracks have occurred in the cargo door hinge lugs. The cracking is believed to be the result of stress corrosion in the 2014 aluminum alloy. This condition, if not corrected, could result in sudden decompression of the airplane.

Fokker Aircraft issued Service Bulletin F28/52-a100, dated June 6, 1987, which describes a one-time dye penetrant inspection on both side faces of all cargo door hinge lugs on the fuselage, and replacement of hinges, as necessary. The RLD has classified the service bulletin as mandatory. On June 19, 1987, Fokker issued Revision 1 to Service Bulletin F28/52-a 100, which describes an alternate visual inspection method that is equivalent to the dye penetrant inspection, described in the original issue of the service bulletin, for the assessment of the structural condition of the hinges.

This airplane model is manufactured in The Netherlands and type certificated in the United States under the provisions of § 21.29 of the Federal Aviation Regulations and the applicable bilateral airworthiness agreement.

Since these conditions are likely to exist or develop on airplanes of this model registered in the United States, an AD is proposed that would require inspection of the cargo door hinge lugs for cracks, and replacement as specified, in accordance with the service bulletin previously mentioned. The FAA may consider further rulemaking on this subject once data is obtained from the results of the required inspections.

It is estimated that 51 airplanes of U.S. registry would be affected by this AD, that it would take approximately 1.5 manhours per airplane to accomplish the required actions, and that the average labor cost would be $40 per manhour. Based on these figures, the total cost

impact of this AD to U.S. operators is estimated to be $3,060.

For the reasons discussed above, the FAA has determined that this document (1) involves a proposed regulation which is not major under Executive Order 12291 and (2) is not a significant rule pursuant to the Department of Transportation Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and it is further certified under the criteria of the Regulatory Flexibility Act that this proposed rule, if promulgated, will not have a significant economic impact on a substantial number of small entities because of the minimal cost of compliance per airplane ($60). A copy of a draft regulatory evaluation prepared for this action is contained in the regulatory docket.

List of Subjects in 14 CFR Part 39

Aviation safety, Aircraft.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration proposes to amend § 39.13 of Part 39 of the Federal Aviation Regulations as follows:

PART 39—[AMENDED]

1. The authority citation for Part 39 continues to read as follows:

Authority: 49 U.S.C. 1354(a), 1421 and 1423; 49 U.S.C. 106(g) (Revised Pub. L. 97-449, January 12, 1983); and 14 CFR 11.89.

§ 39.13 [Amended]

2. By adding the following new airworthiness directive:

Fokker B.V.: Applies to Model F-28 series airplanes, as listed in Fokker B.V. Service Bulletin F28/52-a/100, Revision 1, dated June 19, 1987, certificated in any category. Compliance required within 120 flight hours after the effective date of this AD, unless previously accomplished.

To prevent sudden decompression of the airplane as a result of failure of a cargo hinge lugs, accomplish the following:

A. Visually or dye penetrant inspect the cargo door hinge lugs for cracks, in accordance with Fokker Service Bulletin F28/52-a/100, Revision 1, dated June 19, 1987. Any lugs found to be cracked must be replaced with a serviceable part prior to further flight in accordance with the limitations set forth in the service bulletin.

B. An alternate means of compliance or adjustment of the compliance time, which provides an acceptable level of safety, may be used when approved by the Manager, Standardization Branch, ANM-113, FAA, Northwest Mountain Region.

C. Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate airplanes to a base for the accomplishment of inspections and/or modifications required by this AD.

All persons affected by this directive who have not already received the appropriate service documents from the manufacturer may obtain copies upon request to Fokker Aircraft, 1199 N. Fairfax St., Alexandria, Virginia 22314. These documents may be examined at the FAA, Northwest Mountain Region, 17900 Pacific Highway South, Seattle, Washington, or at the Seattle Aircraft Certification Office, 9010 East Marginal Way South, Seattle, Washington.

Issued in Seattle, Washington, on August 21, 1987.

Temple H. Johnson,

Acting Director, Northwest Mountain Region.

[FR Doc. 87-21544 Filed 9-17-87; 8:45 am]

BILLING CODE 4910-13-M

DEPARTMENT OF THE TREASURY

Customs Service

19 CFR Part 113

Proposed Customs Regulations Amendments Relating to Sureties

AGENCY: Customs Service, Treasury.

ACTION: Proposed rule.

SUMMARY: This document proposes to amend the Customs Regulations to provide that a continuous importation and entry bond secured by a corporate surety may only be filed with Customs under cover of a letter signed by an authorized officer or agent of that surety. Such an amendment would protect the Government from unnecessary delays in receiving payment from sureties of an importer's liabilities for which the surety is also responsible, when the surety denies liability because it claims to have no record of the bond upon which the demand is made. It also would guarantee that sureties have a reliable data base concerning the amount of bonds they have outstanding, enabling them to make more intelligent decisions regarding management of those potential liabilities. The document also proposes that continuous importation and entry bonds secured by corporate sureties be filed at the Customs National Finance Center to increase the efficiency and integrity of the information input in Customs Automated Commercial System.

DATES: Comments must be received on or before November 17, 1987.

ADDRESS: Comments (preferably in triplicate) may be addressed to the Regulations Control Branch, U.S. Customs Service, 1301 Constitution Avenue NW., Room 2324, Washington, DC 20229 (202-566-8237).

FOR FURTHER INFORMATION CONTACT:

Bond Aspects: William Lawlor, Drawback and Bonds Division (202-566-5856).

Operational Aspects: Robert J. Koval, Commercial Compliance Division (202-566-2345).

SUPPLEMENTARY INFORMATION:

Background

Part 113, Customs Regulations (19 CFR Part 113), sets forth a description of the various bonds used by the Customs Service and the general requirements applicable to Customs bonds. It contains the general authority and powers of the Commissioner of Customs to require bonds, the general and special bond requirements which must be met by either a principal or a surety, requirements concerning the production of documents, and the authority and manner of assessing liquidated damages for violations of the conditions of bonds, and of cancelling the bond or charges against a bond.

Pursuant to T.D. 84-213, published in the **Federal Register** (49 FR 41152) on October 19, 1984, one standardized bond form covers all the situations for which bonds may be issued (excluding special use bonds for specific situations). This standardized bond can be used either as a single transaction bond or a continuous bond. A single transaction bond is used for one transaction at a specific port. A continuous bond is used to secure multiple transactions or imports through more than one port. Only one continuous bond for a particular activity will be authorized for each principal. A continuous bond is in effect until Customs is notified by either party to the bond contract that the bond is terminated. Pursuant to § 113.27, Customs Regulations (19 CFR 113.27), the written notification of termination must be transmitted to Customs in a reasonable time period before the termination date. Although bond renewal and premium payment procedures between the principal and surety must be made, there is no need to annually refile a continuous bond with Customs.

All bonds require security. They can be secured by an approved corporate or individual surety which gives assurance against default of the bond, or by cash or certain types of Government obligations. Distinctions between the different kinds of sureties are set forth in §§ 113.30 through 113.40, Customs Regulations (19 CFR 113.30-113.40).

Most bonds are issued through Customs brokers. Generally, a broker issues bonds either under a grant of

power of attorney from a corporate surety or by means of having a supply of a corporate surety's bonds in its possession that have been preexecuted by the surety by means of a facsimile seal and signature. Because some brokers do not always report the fact that they have issued a bond for a particular importer to the corporate surety, the corporate surety is sometimes unaware that it is liable on a particular entry for a particular importer. In these situations, when Customs bills a corporate surety for payment on a bond, the surety, to verify its liability, frequently requests copies of the bond and entry documents from Customs. This causes delay in payment of the importer's liabilities to Customs. Also, in some instances, it is discovered that bills thought to be the obligation of one corporate surety are actually the obligation of a different corporate surety.

This control problem occurs mostly with continuous bonds secured by corporate sureties. Single entry bonds relate to only one transaction and the bond remains as part of the transaction papers. Accordingly, questions as to who is liable as the surety on a particular single entry bond usually do not arise. Likewise, the question of who is liable on the bond generally does not arise when a bond is filed by an individual surety or is secured by cash or a Government obligation.

In its continuing efforts to simplify transactions between Customs, brokers, the importing public, and corporate sureties, and to increase the efficiency and integrity of its computerized bond system, Customs is proposing to amend Part 113, Customs Regulations (19 CFR Part 113), to create a procedure providing corporate sureties with accurate information regarding outstanding continuous bonds. Except for conforming changes relating to individual sureties and deposits of cash or Government obligations in lieu of surety, this document proposes a change regarding only corporate sureties.

Customs is proposing to amend § 113.12, Customs Regulations (19 CFR 113.12), to require that when a continuous basic importation and entry bond is filed that is secured by a corporate surety, a cover letter signed by an authorized agent or officer of the surety attesting to the fact that a copy of the bond is on file with the surety or its claim-handling agent, be submitted to Customs with the bond.

This will guarantee that corporate sureties are aware of bonds on which they are the surety. They will then have a reliable data base concerning their outstanding bonds, permitting them to make more intelligent decisions regarding management of those potential liabilities. This will also protect Customs from unnecessary delays in payment due to denial of liability by sureties who are uncertain that they are responsible for an importer's liablities because they have no record of the bond for which they are being billed.

In addition, Customs is proposing that basic importation and entry (I&E) continuous bonds secured by corporate sureties be directly filed at the Customs National Finance Center in Indianapolis, Indiana and that other continuous bonds be forwarded to the National Finance Center by the district director or regional commissioner who approves them. Currently, continuous bonds must be filed with the district director unless they are bonds relating to the payment of an erroneous drawback payment. The latter bonds are now filed with the appropriate regional commissioner. Since all continuous I&E bonds secured by corporate sureties will be directly filed at the National Finance Center rather than with district directors or regional commissioners, it is proposed that mandatory minimum amounts of $100,000 be set for continuous I&E bonds filed by corporate sureties.

To increase the efficiency and integrity of the information input into the Automated Commercial System (ACS), Customs is centralizing the location for the filing of continuous bonds secured by corporate sureties. A centralized system will help to reduce the volume of paper flow between Customs and corporate sureties.

Conforming amendments

Section 113.35, Customs Regulations (19 CFR 113.35), now states that it is the responsibility of the district director to determine whether an individual surety is financially responsible. This is not consistent with § 113.11, Customs Regulations (19 CFR 113.11), as now worded, or as this document proposes to amend § 113.12, that a bond relating to repayment of an erroneous drawback payment shall be filed with the regional commissioner for approval. Accordingly, this document proposes to amend § 113.35 to make it consistent with § 113.12 by deleting the words "district director" whenever it appears in § 113.35(d) and (e), and substituting the words "appropriate Customs officer".

In addition, numerous other conforming changes are proposed throughout Part 113 to reflect that continuous I&E bonds secured by corporate sureties are to be filed at the National Finance Center. Further, it is proposed to amend § 113.37 and § 113.39, Customs Regulations (19 CFR 113.37 and 113.39), to reflect that the Bureau of Government Financial Operations of the Department of the Treasury has been renamed the Financial Management Service.

Comments

Before adopting this proposal, consideration will be given to any written comments timely submitted to Customs. Comments submitted will be available for public inspection in accordance with the Freedom of Information Act (5 U.S.C. 552), § 1.4, Treasury Department Regulations (31 CFR 1.4), and § 103.11(b), Customs Regulations (19 CFR 103.11(b)), on regular business days between the hours of 9:00 a.m. and 4:30 p.m. at the Regulations Control Branch, Room 2324, U.S. Customs Service Headquarters, 1301 Constitution Avenue, NW, Washington, DC 20229.

Regulatory Flexibility Act

Pursuant to the provisions of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), it is certified that, if adopted, the proposed amendments will not have a significant economic impact on a substantial number of small entities. Accordingly, they are not subject to the regulatory analysis or other requirements of 5 U.S.C. 603 and 604.

Executive Order 12291

This document does not meet the criteria for a "major rule" as specified by E.O. 12291. Accordingly, no regulatory impact analysis has been prepared.

Paperwork Reduction Act

The collections of information required by the Customs bond (Customs Form 301) and Part 113, Customs Regulations (19 CFR Part 113), have been cleared by the Office of Management and Budget pursuant to the Paper Reduction Act of 1980 (44 U.S.C. 3507) and assigned control number 1515-0144.

Drafting Information

The principal author of this document was Harold M. Singer, Regulations Control Branch, U.S. Customs Service. However, personnel from other offices participated in its development.

List of Subjects in 19 CFR Part 113

Air carriers, Customs duties and inspection, Exports, Freight, Imports, Surety bonds, Vessels.

Proposed Amendments

It is proposed to amend Part 113, Customs Regulations (19 CFR 113), as set forth below.

PART 113—CUSTOMS BONDS

1. The authority citation for Part 113, Customs Regulations (19 CFR Part 113), continues to read as follows:

Authority: 19 U.S.C. 66, 1623, 1624. Subpart E also issued under 19 U.S.C. 1484, 1551, 1565.

§ 113.11 [Removed and Reserved]

2. It is proposed to amend Part 113 by removing § 113.11 and marking it "Reserved".

3. It is proposed to revise the section heading, paragraphs (a), (b) introductory text, (b)(2), and (c), and adding introductory text, paragraphs (b)(3), and (d) of § 113.12 to read as follows:

§ 113.12 Bond application and approval.

Each person who is required by law, regulations or specific instruction to post a bond to secure a Customs transaction or multiple transactions, must submit the bond on Customs Form 301.

(a) *Single transaction bond.* Single transaction bonds whether secured by individual sureties, corporate sureties or by cash or obligations of the U.S., shall be filed with and approved by the district director in the district in which the transaction will take place. To ensure that the revenue is adequately protected, the district director may require a person who will be engaged in a single Customs transaction relating to the importation or entry of merchandise to file a written bond application which may be in the form of a letter. The application shall identify the value and nature of the merchandise involved in the transaction to be secured. When the proper bond in a sufficient amount is filed with the entry summary or, when the entry summary is filed at the time of entry, with the entry, an application will not be required.

(b) *Continuous importation and entry bonds secured by corporate sureties.* A bond application for a continuous importation and entry bond secured by a corporate surety may be in the form of a letter. The application shall be submitted by the applicant, through the corporate surety, to the Customs National Finance Center, Indianapolis, Indiana 46268.

(1) * * *

(2) *Application updates.* If the bond is approved based upon the application, whenever there is a significant change in the information provided under this paragraph, the principal on the bond shall submit a new application through the surety containing an update of the information required by paragraph (b)(1) of this section. The new application shall be filed no later than 30 days after the new facts become known to the principal.

(3) *Approval.* Continuous importation and entry bonds secured by corporate sureties shall be set in the amount stated in § 113.13(a). These bonds shall be filed at the National Finance Center under cover of a letter signed by an officer or authorized agent of the corporate surety who is authorized to accept and/or process claims thereunder, and attesting that a copy of the bond is on file with such surety or agent. Only one continuous bond for a particular activity will be authorized for each principal.

(c) *Continuous bonds secured by individual surety, cash or obligation of the U.S., or corporate surety for other than importation and entry*—(1) *Application.* Any bond application for a continuous bond secured by a corporate surety other than an importation and entry bond or for a continuous bond secured by an individual surety or by cash or obligation of the U.S. shall be submitted to the appropriate district director. It may be in the form of a letter.

(2) *Approval.* If the transactions will occur in a single Customs district, the bond shall be submitted to and approved by the district director of the district in which the transactions will occur. If the transactions will occur in more than one district, the bond may be submitted to and approved by a district director in any of the districts in which the transaction will occur. Only one continuous bond for a particular activity will be authorized for each principal. Except for continuous bonds to secure erroneous drawback payments, the district director approving the bond will determine whether the bond is in proper form and whether it provides adequate security for the transactions. A continuous bond to secure erroneous drawback payments shall be submitted to the regional commissioner who is to process the claims. The regional commissioner will determine the sufficiency of that bond's coverage. Upon approval, the district director or regional commissioner shall forward the bond to the National Finance Center for filing. A continuous entry and drawback bond shall be submitted to the regional commissioner. The regional commissioner, after approval of the bond, shall send it to the surety who shall transmit it to the National Finance Center. In the case of individual sureties, the district director shall be responsible for the continuancy of financial responsibility (see § 113.35(e)).

(i) Procedures for acceptance of continuous bonds with individual sureties are set forth in § 113.35.

(ii) Procedures for acceptance of continuous bonds with cash or obligations of the U.S. in lieu of surety are set forth in § 113.40.

(iii) Procedures relating specifically to the acceptance of bonds, notes or bills are set forth in Part 225 and Part 306, Subpart O, Financial Management Services Regulations (31 CFR Part 225 and 31 CFR Part 306, Subpart 0).

(d) *Certification.* Any application submitted under this section shall be signed by the applicant and contain the following certification:

I certify that the factual information contained in this application is true and accurate and any information provided which is based upon estimates is based upon the best information available on the date of this application.

4. It is proposed to revise paragraph (a), the introductory language of paragraph (b), and paragraphs (c) and (d) of § 113.13 to read as follows:

§ 113.13 Amount of bond.

(a) *Minimum amount of bond.* The amount of any Customs bond shall not be less than $100, except when the law or regulation expressly provides that a lesser amount may be taken. Continuous importation and entry bonds secured by corporate sureties shall be in the amount of at least $100,000. For all bonds other than continuous importation and entry bonds secured by corporate sureties, fractional parts of a dollar shall be disregarded in computing the amount of a bond; the bond shall always be stated as the next highest dollar. For continuous entry and importation bonds secured by corporate sureties, if the principal has duties in excess of $1,000,000 in the previous year, the bond shall be in the amount of 10 percent of those duties rounded to the nearest $100,000.

(b) *Guidelines for determining amount of bond.* In determining whether the amount of a bond is sufficient, the National Finance Center, district director, or regional commissioner, as appropriate (see § 113.12), should at least consider:

* * * * *

(c) *Periodic review of bond sufficiency.* The National Finance Center shall periodically compare charges against each outstanding continuous importation and entry bond secured by corporate sureties with charges and claims against that bond. District directors and regional commissioners shall periodically review each bond approved in their respective

district or region to determine whether the bond is adequate to protect the revenue and insure compliance with the law and regulations. If the National Finance Center, district director, or regional commissioner determines that the bond is inadequate, the principal shall be immediately notified in writing. The principal shall have 30 days from the date of notification to remedy the deficiency.

(d) *Additional security.* Notwithstanding the provisions of this section or any other provision of this chapter, if the National Finance Center, district director, or regional commissioner believes that acceptance of a transaction secured by a continuous bond would place the revenue in jeopardy or otherwise hamper enforcement of Customs laws or regulations, additional security shall be required.

5. It is proposed to revise § 113.15 to read as follows:

§ 113.15 Retention of approved bonds.

All approved continuous bonds shall remain on file at the National Finance Center. All single transaction bonds shall remain on file with the documents associated with the transaction for which they are given and retained by the appropriate Customs officer having jurisdiction over that transaction. The bond containing the agreement to pay court costs (condemned goods) (see § 113.72), shall be transmitted to the United States attorney, as required by section 608, Tariff Act of 1930, as amended (19 U.S.C. 1608). Other disposition of the bonds can occur only if so ordered by the Director, Carriers, Drawback and Bonds Division.

§ 113.24 [Amended]

6. It is proposed to amend the first sentence of § 113.23(d) by inserting "National Finance Center, regional commissioner, or" between "the" and "district director".

7. It is proposed to revise the introductory text of §113.24(a) to read as follows:

§ 113.24 Riders.

(a) *Types of riders.* The National Finance Center may accept the following types of bond riders.

* * * * *

8. It is proposed to revise § 113.27 (a) and (b) to read as follows:

§ 113.27 Effective dates of termination of bond.

(a) *Termination by principal.* A request by a principal to terminate a bond shall be made in writing to the National Finance Center. The termination shall take effect on the date requested if the date is at least 10 business days after the date of receipt of the request. Otherwise the termination shall be effective on the close of business 10 days after the request is received. If no termination date is requested, the termination shall take effect on the tenth business day following the date of receipt of the request.

(b) *Termination by surety.* A surety may, with or without the consent of the principal, terminate a Customs bond on which it is obligated. The surety shall provide reasonable written notice to both the principal and, depending on where the bond was approved, either the National Finance Center or the district director or regional commissioner in the district or region where the bond was approved, of the intent to terminate. The written notice shall state the date on which the termination shall be effective and shall be sent to both Customs and the principal by certified mail, with a return receipt requested. Thirty days shall constitute reasonable notice unless the surety can show to the satisfaction of the Customs office where the bond was approved that lesser time is reasonable under the facts and circumstances.

* * * * *

9. It is proposed to revise § 113.32(a) to read as follows:

§ 113.32 Partnerships as principals.

(a) *Names of partners on the bond.* Unless written notice of the full names of all partners in the firm has been previously filed with the National Finance Center, or the district director or regional commissioner in the district or region where the bond was approved, the names of all persons composing the partnership shall appear in the body of the bond; for example, "Aaron A. Abel, Bertrand B. Bell and Charles C. Cole, composing the firm of Abel, Bell, Cole and Co."

* * * * *

§ 113.33 [Amended]

10. It is proposed to amend the first sentence of § 113.33(c) by inserting "or the National Finance Center" between "Commissioner" and "to".

11. It is proposed to amend § 113.33(d) by inserting "or National Finance Center" between "director" and "unless".

12. It is proposed to revise § 113.37(a) to read as follows:

§ 113.37 Corporate sureties.

(a) *Lists of corporations and limits on their bonds.* Treasury Department Circular 570 contains a list of corporations authorized to act as sureties on bonds, with the amount in which each may be accepted. The Circular shall be furnished annually to all district directors and to the National Finance Center by the Secretary of the Treasury. Unless otherwise directed by the Commissioner of Customs, no corporation shall be accepted as surety on a bond if not named in the current Circular as amended by **Federal Register** notice, and no bond shall be for a greater amount than the respective limit stated in the Circular, unless the excess is protected as prescribed in § 223.11, Financial Management Service Regulations (31 CFR 223.11).

* * * * *

13. It is proposed to amend the second sentence of § 113.37(f) by removing "Bureau of Government Financial Operations" and inserting, in its place, "Financial Management Service."

14. It is proposed to amend § 113.37(g)(2) by revising the first sentence to read as follows:

(g) * * *

(2) *Filing.* The corporate surety power of attorney executed on Customs Form 5297 for continuous importation and entry bonds shall be filed at the National Finance Center. All other corporate surety powers of attorney shall be filed at a district office unless the district director permits filing at any port within the district, in which case the corporate surety power of attorney must be submitted in duplicate. * * *

15. It is proposed to amend the last sentence of § 113.37(g)(4) by inserting "National Finance Center" between "the" and "district".

16. It is proposed to revise § 113.38(c) to read as follows:

§ 113.38 Delinquent sureties.

* * * * *

(c)(1) *Nonacceptance of continuous importation and entry bond secured by corporate surety by National Finance Center.* The National Finance Center may refuse to accept a continuous importation and entry bond secured by a corporate surety when the surety, without just case, is significantly delinquent either in the number of outstanding bills or dollar amounts thereof. If the National Finance Center believes that a substantial question of law exists as to whether a breach of bond obligation has occurred, it should request internal advice under the provisions of § 177.11 of this chapter from the Director, Carriers, Drawback and Bonds Division, Customs Headquarters.

(2) *Nonacceptance of other bonds by district director or regional commissioner.* A district director or regional commissioner, as appropriate, may refuse to accept a bond secured by

an individual or corporate surety when the surety, without just cause, is significantly delinquent either in the number of outstanding bills or dollar amount thereof. If the district director believes that a substantial question of law exists as to whether a breach of bond obligation has occurred, he should request internal advice under the provisions of § 177.11 of this chapter from the Director, Carriers, Drawback and Bonds Division, Customs Headquarters.

(3) *Nonacceptance of bond upon instructions by Commissioner.* The Commissioner may, when circumstances warrant, issue instructions to the National Finance Center, district directors, and regional commissioners, that they shall not accept a bond secured by an individual or corporate surety when that surety, without just cause, is significantly delinquent either in the number of outstanding bills or dollar amounts thereof.

(4) *Notice of surety.* The appropriate Customs officer may take the above actions only after the surety has been provided reasonable notice with an opportunity to pay delinquent amounts, provide justification for the failure to pay, or demonstrate the existence of a significant legal issue justifying further delay in payment.

(5) *Review and final decision.* After a review of any submission made by the surety under paragraph (c)(4) of this section, if the appropriate Customs officer is still of the opinion bonds secured by the surety should not be accepted, written notice of the decision shall be provided to the surety in person or by certified mail, return receipt requested, at least 5 days before the date that Customs will no longer accept the bonds of the surety. When notice is sent to the surety of the decision not to accept the surety's bonds, the appropriate Customs office shall notify the Director, Carriers, Drawback and Bonds Division, Customs Headquarters. The decision shall also be published in the Customs Bulletin.

(6) *Duration of decision.* Any decision not to accept a given surety's bond shall remain in effect for a minimum of 5 days or until all outstanding delinquencies are resolved, whichever is later.

(7) *Actions consistent with requirements.* Any action not to accept the bonds of a surety under paragraphs (c) (1), (2), and (3), of this section shall be consistent with the requirements of this section.

17. It is proposed to revise § 113.39 to read as follows:

§ 113.39 Procedure to remove a surety from Treasury Department Circular 570.

If the National Finance Center, a district director or regional commissioner is unsatisfied with a surety company because the company has neglected or refused to pay a valid demand made on the surety company's bond or otherwise has filed to honor an obligation on that bond, the National Finance Center, district director, or regional commissioner may take the following steps to recommend that the surety company be removed from Treasury Department Circular 570. The fact that collection proceedings have been, or are to be, started on a bond does not preclude use of this procedure if the National Finance Center, district director, or regional commissioner believes such action is warranted.

(a) *Report to Headquarters.* The National Finance Center, district director, or regional commissioner shall send the following evidence to Headquarters, Attn: Director, Carriers, Drawback and Bonds Division. If the report is from a district director it shall be submitted through the appropriate regional commissioner.

(1) A copy of the bond in issue;

(2) A copy of the entry or other evidence which shows that there was a default on the bond;

(3) A copy of all notices, demands or correspondence sent to the surety company requesting the honoring of the bond obligation;

(4) A copy of all correspondence from the surety company; and

(5) A written report of the facts known to the National Finance Center, district director, or regional commissioner showing the unsatisfactory performance by the surety company of the bond obligation(s).

(b) *Review by Headquarters.* The Director, Carriers, Drawback and Bonds Division, shall review submitted evidence and determine whether further action against the surety company is warranted. If it is determined that further action is warranted, a report recommending appropriate action will be submitted to the Fiscal Assistant Secretary, Department of the Treasury, as required by § 223.18(a), Financial Management Service Regulations (31 CFR 223.18(a)). The National Finance Center or district director and regional commissioner will be informed in writing of Headquarters action regarding their request for removal of the surety.

William von Raab,

Commissioner of Customs.

Approved.

Francis A. Keating II,

Assistant Secretary of the Treasury.

[FR Doc. 87-21497 Filed 9-17-87; 8:45 am]

BILLING CODE 4820-02-M

Internal Revenue Service

26 CFR Parts 1 and 602

[LR-83-86]

Low-Income Housing Credit, Public Hearing on Proposed Regulations

AGENCY: Internal Revenue Service, Treasury.

ACTION: Notice of public hearing on proposed regulations.

SUMMARY: This document provides notice of a public hearing on proposed regulations relating to the low-income housing credit under section 42 of the Internal Revenue Code of 1986, as enacted by the Tax Reform Act of 1986 (Pub. L. 99-514). These regulations provide guidance concerning the State low-income housing credit authority limitation.

DATES: The public hearing will be held on Monday, November 9, 1987, beginning at 10:00 a.m. Outlines of oral comments must be delivered on or mailed by Friday, October 23, 1987.

ADDRESS: The public hearing will be held in the I.R.S. Auditorium, Seventh Floor, 7400 Corridor, Internal Revenue Building, 1111 Constitution Avenue, NW., Washington, DC. The requests to speak and outlines of oral comments should be submitted to the Commissioner of Internal Revenue Service, 1111 Constitution Avenue, NW., Attn: CC:LR:T, Room 4429, (LR-83-86), Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Angela D. Wilburn of the Legislation and Regulations Division, Office of Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, DC 20224, telephone 202-566-3935, (not a toll-free call).

SUPPLEMENTARY INFORMATION: The subject of the public hearing is proposed regulations under section 42 of the Internal Revenue Code of 1986 as enacted by the Tax Reform Act of 1986, (Pub. L. 99-514). The proposed regulations appeared in the **Federal Register** for Monday, June 22, 1987 at (52 FR 23471).

The rules of § 601.601(a)(3) of the "Statement of Procedural Rules" (26 CFR Part 601) shall apply with respect to the public hearing. Persons who have submitted written comments within the time prescribed in the notice of proposed rulemaking and who also desire to present oral comments at the hearing on the proposed regulations should submit not later than Friday, October 23, 1987, an outline of the oral comments to be presented at the hearing

and the time they wish to devote to each subject.

Each speaker will be limited to 10 minutes for an oral presentation exclusive of the time consumed by questions from the panel for the government and answers to these questions.

Because of controlled access restrictions, attendees cannot be admitted beyond the lobby of the Internal Revenue Building until 9:45 a.m.

An agenda showing the scheduling of the speakers will be made after outlines are received from the speakers. Copies of the agenda will be available free of charge at the hearing.

By direction of the Commissioner of Internal Revenue:

Donald E. Osteen,

Director, Legislation and Regulations Division.

[FR Doc. 87-21630 Filed 9-17-87; 8:45 am]

BILLING CODE 4830-01-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[A-5-FRL-3263-3]

Approval and Promulgation of Implementation Plans; Illinois

AGENCY: U.S. Environmental Protection Agency (USEPA).

ACTION: Notice of proposed rulemaking; extension of the public comment period.

SUMMARY: On July 14, 1987 (52 FR 26424), USEPA proposed rulemaking and solicited public comment on a revision to the Illinois State Implementation Plan for Ozone. USEPA proposed to disapprove the State's plan as not meeting all requirements of Part D (sections 171-178) of the Clean Air Act (Act). Based on that finding, USEPA also proposed to impose a construction ban as set forth in section 110(a)(2)(I) of the Act on major new stationary sources of volatile organic compounds (VOC) in the Illinois portions of the Chicago and St. Louis ozone nonattainment areas.

At the request of the State of Illinois, the public comment period is being extended until October 29, 1987, to allow additional time to develop comments on the complex issues presented in the proposed rulemaking.

DATE: Comments must be received on or before October 29, 1987.

ADDRESS: Comments should be submitted to: Gary V. Gulezian, Chief, Regulatory Analysis Section, Air and Radiation Branch Region V, U.S. Environmental Protection Agency (5AR-26), 230 South Dearborn Street, Chicago, Illinois 60604.

FOR FURTHER INFORMATION CONTACT: Randolph O. Cano, (312) 886-6036.

Dated: September 10, 1987.

Frank M. Covington,

Acting Regional Administrator.

[FR Doc. 87-21605 Filed 9-17-87; 8:45 am]

BILLING CODE 6560-50-M

40 CFR Part 52

[FRL-3263-9]

Approval and Promulgation of Implementation Plans; Dallas and Tarrant Counties, TX; Extension of Public Comment Period

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of extension of public comment period.

SUMMARY: EPA is giving notice that the public comment period for the notice of proposed rulemaking published July 14, 1987 (52 FR 26421), regarding the proposed disapproval of the Dallas and Tarrant Counties State Implementation Plan (SIP) for ozone, is being extended an additional 60 days to November 13, 1987. EPA is taking this action in response to requests from the North Central Texas Council of Governments and the Texas Air Control Board. The Texas Air Control Board's request was for a 120 day extension to the comment period. However, it is EPA's position that an additional 60 days is an appropriate time period to provide comments on the content of the proposed disapproval package.

DATE: Comments are now due on or before November 13, 1987.

ADDRESS: Send comments to the Environmental Protection Agency, Region 6, 1445 Ross Avenue, Dallas, Texas 75202.

FOR FURTHER INFORMATION CONTACT: Thomas H. Diggs, State Implementation Plan/New Source Review Section, Air Programs Branch, Environmental Protection Agency, Region 6, 1445 Ross Avenue, Dallas, Texas 75202, telephone (214) 655-7214 or FTS 255-7214.

List of Subjects in 40 CFR Part 52

Air pollution control, Ozone.

Authority: 42 U.S.C. 7401-7642.

Date: September 11, 1987.

Robert E. Layton Jr.,

Regional Administrator (6A).

[FR Doc. 87-21609 Filed 9-17-87; 8:45 am]

BILLING CODE 6560-50-M

40 CFR Part 261

[FRL-3263-6]

Hazardous Waste Management System; Identification and Listing of Hazardous Waste

AGENCY: Environmental Protection Agency.

ACTION: Notice of data availablity and request for comment.

SUMMARY: On September 25, 1981, the Environmental Protection Agency (EPA) issued an interim final rule and request for comment that excluded from regulation waste samples collected for the sole purpose of testing to determine their characteristics or composition. In the preamble to the interim final rule, EPA stated that it did not intend the exclusion to include the larger-size samples used in treatability studies or other tests at pilot-scale or experimental facilities. Several commenters raised issues about the scope of the exclusion. As a result of the comments received on the interim final rule and other available data, the Agency is reopening the comment period on the September 25, 1981, rule and soliciting comment on a number of specific issues concerning the applicability of the exemption to treatability studies.

DATES: EPA will accept public comments on this notice until October 19, 1987. Comments postmarked after this date may not be considered.

ADDRESSES: The public must send an original and two copies of their comments to: EPA RCRA Docket (S-212) (WH-562), 401 M Street SW., Washington, DC 20460.

Place "Docket number F-87-TSEF-FFFFF" on your comments. The Office of Solid Waste (OSW) docket is located in the sub-basement at the above address, and is open from 9:00 am to 4:00 pm, Monday through Friday, excluding Federal holidays. The public must make an appointment by calling (202) 475-9327 to review docket materials. The public may copy a maximum of 50 pages of material from any one regulatory docket at no cost; additional copies cost $0.20 per page. Copies of the comments on the interim final rule and the petitions received are available for *viewing and copying only* in the OSW docket.

FOR FURTHER INFORMATION CONTACT: The RCRA/Superfund Hotline at (800) 424-9346 or at (202) 382-3000. For technical information contract Paul Mushovic, Office of Solid Waste (WH-562B), U.S. Environmental Protection

Agency, 401 M Street SW., Washington, DC 20460, (202) 382-7392.

SUPPLEMENTARY INFORMATION:

I. Background

On September 25, 1981 (46 FR 47426), EPA issued an interim final rule and request for comment. This rule conditionally excluded waste samples and other samples, which are collected solely for the purpose of testing to determine their characteristics or composition, from regulation under Subtitle C of the Resource Conservation and Recovery Act (RCRA), including the generator and transporter requirements of Parts 262 and 263 and the permitting requirements. The Agency granted this exclusion because it believes that certain incentives already existed for the safe transport and management of waste samples, and that these incentives would assure protection of human health and the environment without requiring samples to be subject to the full set of hazardous waste management requirements. These incentives include: (1) The avoidance of duplicative costs associated with sample collection, transportation, testing, and storage, (2) the need to receive analysis results before the generator can comply with the hazardous waste regulations and other state or local requirements, (3) the laboratory's return of the sample to the generator is typically part of a contractual agreement (usually under the premise that the generator may have proprietary information to protect), and (4) the laboratory's avoidance of the costs of disposal by returning the sample to the generator. The preamble stated that EPA did not intend to exclude from regulation the larger-size samples used in treatability or other studies. The preamble, however, did not discuss treatability studies that typically require smaller-size samples.

The preamble also stated that the Agency had considered and rejected a quantity limit for the samples subject to the exclusion. Our rationale was that available information indidcated that, typically, the size of samples shipped for characterization or analytical purposes was about 1 gallon. However, the Agency stated that it would consider imposing a limit on sample size if comments or experience indicated that larger shipments of samples do occur. While most commenters supported the exclusion, several expressed concern that § 261.4(d) did not explicitly apply to samples used in treatability studies.

II. Availability of Data

Since the interim final rule, the Agency has received the following new data:

(1) Comments received in response to the interim final rule;

(2) Two recent rulemaking petitions submitted by the Hazardous Waste Treatment Council (HWTC) (only the one received on June 2, 1987 is being considered in this notice); and

(3) A Memorandum entitled "Waste Quantity Required for Offsite Treatability studies." This memorandum was written from Joan Knapp and Bill Glynn, REM II Contractor, on May 18, 1987, to John Smith, EPA/Washington. It was written to provide to the personnel involved in Superfund cleanup activities information on the sample sizes required for various treatability studies.

Copies of these documents are available in the RCRA docket (see **"ADDRESSES"** section).

The Agency received 22 comments on the interim final rule. Approximately one-half of the commenters suggested that the laboratory sample exclusion should be expanded explicitly to include treatability studies. Some commenters suggested a limit on sample sizes (*e.g.*, less than 5 gallons, 5–10 gallons, or 55 gallons). It should also be noted that in the Agency's export rule (see 51 FR 28664), comments were reviewed which suggest that EPA exempt such samples from the export requirements (see RCRA docket for export rule for specific comments).

The commenters, and the HWTC in its rulemaking petitions, have argued that the sample exclusion should be expanded to include treatability studies requiring smaller-size samples. They maintain that such an expansion will not create a significant risk to public health and the environment, and will move substantial impediments to timely CERCLA cleanup activities and RCRA corrective actions. The principal focus of these arguments is that the present RCRA Subtitle C permit requirements unnecessarily interfere with the experimentation and research necessary to evaluate effective treatment technologies. The most frequently cited regulatory barriers are the costs of applying for a RCRA permit, the delays associated with obtaining Agency approval of the application, and delays prior to final granting of the permit.

On June 2, 1987, EPA received a rulemaking petition from the HWTC. This petition specifically requests that EPA amend the RCRA regulations to include small-scale treatability studies in the § 261.4(d) exclusion and to establish conditional exclusions for larger-scale tests.[1] The HWTC defined a treatability study as an analysis in which a relatively small amount of hazardous waste is subjected to a known treatment process to determine: (1) Whether the waste is amendable to a treatment process, (2) what pretreatment (if any) is required, (3) the optimal process conditions needed to achieve the desired treatment, (4) the efficiency of the treatment process for a specific waste or wastes, and (5) the characteristics and volume of residuals from a particular treatment process. Such a treatability study can be performed in bench-scale, pilot-scale, or full-scale equipment.

Current RCRA regulations require that facilities treating hazardous waste have a RCRA permit or have interim status. The HWTC's petition argues that this requirement, when applied to small-scale treatability studies causes unwarranted difficulties in the implementation of CERCLA and will have a similar effect on RCRA corrective action.

The petition requests that § 261.4(d) be interpreted and explicitly amended to exclude limited quantities of samples of hazardous wastes used for treatability studies, and the shipment and storage of those samples. The petition suggests the following limits: (1) No one shipment may exceed 250 kg (which, based on the density of water, is approximately the volume of a 55-gal drum), (2) no more than 1,000 kg of exempted waste may be present at the treatability study facility at any one time, and (3) no more than 250 kg of exempted waste may be subjected to treatability studies in any one day.

The Agency has included in the docket a memorandum (item 3, above), which summarizes information concerning the sample sizes required for conducting bench-scale and pilot-scale treatability studies for Superfund cleanups. This memorandum indicates that 250 kg appears to be an adequate sample size for most smaller-scale studies.

The Agency is currently considering only smaller-scale treatability studies. The second part of HWTC's proposal concerning exclusions for larger-scale treatabilities studies, and HWTC's petition for amending the NCP, will be addressed separately, at a later date.

[1] Also, the HWTC submitted a companion rulemaking petition on May 21, 1987 requesting that the Agency amend the CERCLA National Contingency Plan (NCP) to extend the present on-site treatability exemption from permitting to include off-site treatability studies. That petition is not being considered in this notice.

This exclusion, if expanded, also would exclude such samples from the export requirement codified at 40 CFR 262.50.

III. Reopening of the Comment Period

Since the publication of the interim final rule, the new data identified above has been made available to the Agency. The Agency currently is reviewing these data to decide whether the sample exclusion is 40 CFR 261.4(d) should include waste used in smaller-scale treatability studies. As part of this review, the Agency also is reopening the comment period and soliciting comment on the following issues:

(1) Should the Agency promulgate a final rule that expands the sample exclusion to apply to small-scale treatability studies?

(2) Is the definition of treatability studies as proposed by the HWTC appropriate?

(3) Should the exclusion be further expanded to include other types of studies, such as liner compatability studies? If so, what other types of studies would benefit from this exclusion?

(4) Are the limitations proposed by the HWTC on sample size, shipment size, and storage adequate to provide for meaningful treatability studies and to protect human health and the environment by minimizing risk? If not, please specify: (1) The limit (*i.e.*, sample size, shipment size, storage quantity), (2) whether it is practicable to conduct treatability studies under the specified limitation, and (3) whether the size limit would protect human health and the environment by presenting *de minimis* risk?

(5) Should there be an upper limit in the exclusion to prevent a facility from storing and treating an unlimited amount of hazardous waste samples so the facility would be operating as a large scale treatment, storage, and disposal facility? For example, should a limit, such as the number of days allowed to treat a particular waste or the total number of days in which studies will be allowed per month, be set? We solicit comments on these or any other specific limits that could be imposed.

(6) The Agency is concerned that many samples of the same waste could be subjected to and endless set of varying treatment conditions to circumvent proper treatment or disposal under RCRA Subtitle C. Is this a valid concern, or would this practice be economically infeasible?

(7) Are the incentives for safe transport and storage of waste characterization samples also present for treatibility samples? If not, why not?

(8) After the treatability study is completed, should a limit be imposed for the time the sample may be present at the facility until it, or its residue, leaves the facility?

Comments are solicited on those issues presented above, and on any other issues directly relevant to an expansion of the § 261.4(d) exclusion to include treatability studies. Comments on the petition for CERCLA exemptions or on issues relating to other portions of the interim final rule will not be considered.

List of Subjects in 40 CFR Part 261

Hazardous Waste, Recycling.

Date: September 14, 1987.

J.W. McGraw,

Acting Assistant Administrator.

[FR Doc. 87-21607 Filed 9-17-87; 8:45 am]

BILLING CODE 6560-50-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 90

[PR Docket 87-312, RM 5662; FCC 87-262]

Private Land Mobile Radio Services, Special Emergency Radio Service, Private Carriers

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: The Commission is proposing to allow private carriers who offer medical communications services to be licensed directly in the Special Emergency Radio Service (SERS). Such private carriers would be able to offer communications services to other SERS eligibles.

DATES: Interested parties may file comments on or before October 30, 1987, and reply comments on or before November 16, 1987.

ADDRESS: Federal Communications Commission, Washington DC 20554.

FOR FURTHER INFORMATION CONTACT: Gay Ludington, Rules Branch, Land Mobile and Microwave Division, Private Radio Bureau, (202) 634-2443.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Notice of Proposed Rulemaking, PR Docket 87-312, adopted August 4, and released September 9, 1987.

The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street, NW., Washington, DC 20037. The complete text of this decision may also be purchased from the Commission's copy contractor, International Transcription Service, (202) 857-3800, 2100 M Street, NW., Suite 140, Washington, DC 20037.

Summary of Notice of Proposed Rulemaking

1. This *Notice of Proposed Rulemaking* proposes to amend the Commission's rule governing the eligibility requirements in the Special Emergency Radio Service (SERS). In this *Notice*, we propose to allow commercial enterprises offering medical communications services to be licensed directly in the SERS to operate on a private carrier basis. Such private carriers would be able to offer communications services to other entities eligible in the SERS.

2. ProNet, a supplier of medical equipment and communications systems, has filed a Petition for Rulemaking, requesting that § 90.35 of the Commission's Rules be amended to extend eligibility in the SERS to entities who provide communications services to the medical service industry. Communications service providers not having independent grounds of eligibility themselves, i.e., ProNet, are not presently eligible. Instead, they must arrange for eligible users to become licensees. In turn, the licensees contract with the service providers to manage and operate the system.

3. In its Petition, ProNet argues that licensing of commercial operators promotes efficient spectrum use through consolidation of conflicting or inefficient systems, and encourages development of spectrum-efficient technology. Licensing commercial entities won't compromise the integrity of the SERS, says ProNet, because only eligibles will be permitted to use a commercial system, and the commercial licensee will be subject to Commission rules, regulations and sanctions.

4. We received comments and reply comments from nearly sixty parties. Those in favor of ProNet's petition consisted generally of hospitals, ambulance services and physicians who maintain that ProNet's service has dramatically improved their hospital-run communications systems. On the other hand, state and private emergency medical services (EMS) providers oppose ProNet's proposal, because they fear that its adoption would lead to inappropriate and inefficient use of SERS spectrum, especially ten frequency pairs known as "MED" channels.

5. After close analysis of the comments and reply comments, and

taking into consideration our experience with SERS spectrum users, we believe the public interest, and the interests specifically of the medical community, would best be served by allowing commercial entities to offer private carrier service to SERS eligibles. We wish to make very clear, however, that we do not propose to change the eligibility requirements for using SERS frequencies, including MED channels. Nor do we propose to change the use restrictions to which any of these frequencies are subject.

6. Over the years, the Commission has maintained two parallel objectives regarding the availability and use of SERS spectrum. On the one hand, we have been concerned that the special needs of state and local government agencies and private EMS operators be safeguarded. We recognize the need to protect health and safety as a paramount reason to protect the integrity of SERS frequencies from other less critical uses. On the other hand, we believe that concerns of the medical community and the public's interest in having readily available medical services are best met by fostering equipment and systems development which uses all of the available SERS spectrum, including channels utilized by EMS providers, in increasingly efficient and versatile ways.

7. Satisfying the special needs of SERS eligibles, and at the same time encouraging effective spectrum usage, are compatible objectives. Private carriers can increase efficient spectrum utilization and allow more users to operate in less spectrum. This will help lessen the very overcrowding and interference which plagues EMS users today. In order to be successful commercial ventures, we believe that private carriers will give special attention to the unique requirements of the special emergency community.

Initial Regulatory Flexibility Analysis

8. Pursuant to the Regulatory Flexibility Act of 1980, 5 U.S.C. 604, a initial regulatory flexibility analysis has been prepared. It is available for public viewing as part of the full test of this decision, which may be obtained from the Commission or its copy contractor.

Paperwork Reduction

9. The rule amendment set forth here has been analyzed with respect to the Paperwork Reduction Act of 1980 and has been found to contain no new or modified form, information collection and/or recordkeeping, labeling, disclosure, or record retention requirements, and will not increase or decrease burden hours imposed on the public. Additionally, no new compliance requirements are being promulgated.

Ordering Clauses

10. Authority for issuance of this Notice of Proposed Rule Making is contained in Sections 4(i) and 303(r) of the Communications Act of 1934, as amended, 47 U.S.C. 154(i) and 303(r). Interested persons may file comments on or before October 30, 1987, and reply comments on or before November 16, 1987. All relelvant and timely comments will be considered by the Commission before final action is taken in this proceeding. In reaching its decision, the Commission may take into consideration information and ideas not contained in the comments, provided that the fact of the Commission's reliance on such information is noted in the report and order.

11. In accordance with the provisions of § 1.419 of the Commission's Rules, 47 CFR 1.419, formal participants shall file an original and five copies of their comments and other materials. Participants wishing each Commissioner to have a personal copy of their comments should file an original and 11 copies. Members of the general public who wish to express their interest by participating informally may do so by submitting one copy. All comments are given the same consideration, regardless of the number of copies submitted. All documents will be available for public inspection during regular business hours in the Commission's Public Reference Room at its headquarters at 1919 M Street, NW., Washington, DC 20554.

List of Subjects in 47 CFR Part 90

Private land mobile radio services, Special Emergency Radio Service, private carriers.

Part 90 of Chapter 1 of Title 47 of the Code of Federal Regulations is proposed to be amended as follows:

PART 90—PRIVATE LAND MOBILE RADIO SERVICES

1. Section 90.33 is revised to read as follows:

§ 90.33 Scope.

The Special Emergency Radio Service covers the licensing of the radio communications of the following categories of activities: Medical services, rescue organizations, veterinarians, handicapped persons, disaster relief organizations, school buses, beach patrols, establishments in isolated places, communications standby facilities, and emergency repair of public communications facilities. Private carriers may also be licensed in the Special Emergency Radio Service to provide radio communications service to eligibles. Rules as to eligibility for licensing, permissible communications, classes and numbers of stations, and any special requirements as to each of these categories are set forth in the following sections. Frequencies available for these categories of services are shown in a separate frequency table.

2. Section 90.52 is added to read as follows:

§ 90.52 Private carriers.

Eligibility. Private carriers, as defined in § 90.7, may be licensed to provide service to any Special Emergency Radio Service eligible, subject to the requirements and limitations set out for use of the frequencies listed in § 90.53.

Federal Communications Commission.

William J. Tricarico,

Secretary.

[FR Doc. 87-21408 Filed 9-17-87; 8:45 am]

BILLING CODE 6712-01-M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

Endangered and Threatened Wildlife and Plants; Proposed Endangered Status for Independence Valley Speckled Dace and Clover Valley Speckled Dace

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule.

SUMMARY: The Service proposes endangered status for the Clover Valley speckled dace (*Rhinichthys osculus oligoporus*) and Independence Valley speckled dace (*Rhinichthys osculus lethoporus*), pursuant to the Endangered Species Act of 1973, as amended. The former is known from only two small springs in northwestern Nevada and the latter from only one spring in the same area. Both are in jeopardy because of their extremely limited distribution, the vulnerability of their habitats to perturbation by human irrigation practices, and the introduction of non-native aquatic species.

Such activities have eliminated one population of the Clover Valley speckled dace and caused extinction of another fish, the Independence Valley tui chub (*Gila bicolor isolata*), formerly found in the spring inhabited by the Independence Valley speckled dace. The Service seeks comments from the public on this proposal.

DATES: Comments from all interested parties must be received by November 17, 1987. Public hearing requests must be received by November 2, 1987.

ADDRESSES: Comments and materials concerning this proposal should be sent to the U.S. Fish and Wildlife Service, 500 N.E. Multnomah Street, Lloyd 500 Building, Suite 1692, Portland, Oregon 97232. Comments and materials received will be available for public inspection, by appointment, during normal business hours at the above address.

FOR FURTHER INFORMATION CONTACT: Mr. Wayne S. White, Chief, Division of Endangered Species, at the above address (503/231–6131 or FTS 429–6131).

SUPPLEMENTARY INFORMATION:

Background

The Clover Valley speckled dace was first collected on September 14, 1934, by Dr. C.L. Hubbs and his family (Hubbs *et al.* 1974). It was not recognized as a unique form of speckled dace until Drs. Hubbs and Miller (1972) described it as a subspecies endemic to two springs in Clover Valley, Elko County, Nevada. The Independence Valley speckled dace was not collected until August 25, 1965. It was also described by Hubbs and Miller (1972) as a distinct subspecies of speckled dace found only in Independence Valley.

Speckled dace are members of the minnow family of fishes (Cyprinidae), which is found in many waters of western North America. They are able to occupy a wide variety of habitats, ranging from cold streams and rivers with rocky substrates to small thermal springs with silt substrates. Their adaptability to a broad range of environments has allowed them to persist in habitats too harsh for the survival of many other fish species. Isolation of populations has permitted genetic divergence and resulted in a number of morphologically distinct forms recognized as subspecies. Their diet consists primarily of insects, and their maximum length rarely exceeds 4 inches.

Speckled dace are distinguished from other minnows by, among other characters, the shape and arrangement of pharyngeal teeth (usually slightly curved and hooked in a 1, 4–4, 1 formula) and the presence of well-developed radii completely around the scales. Coloration is typically olive-green on the back, fading to silver/gold on the stomach. As the vernacular name suggests, black spots may be randomly arranged over the body. A distinct black lateral stripe usually extends from the forebody to the caudal fin.

The Clover Valley speckled dace and Independence Valley speckled dace are believed to be derived from an ancestral form similar to the Lahontan speckled dace (*Rhinichthys osculus robustus*), which presently occupies the Humboldt River system in northern Nevada. They are distinguished from the latter by their less developed lateral line system on both the body and head. The Clover Valley speckled dace is further distinguished by the anterior location of its pectoral fins and a lower number of pelvic fin rays (6 versus typically 8 for speckled dace) (Hubbs and Miller 1972). The Independence Valley speckled dace is dwarfed, with a more laterally compressed body than is characteristic of speckled dace in general. Its lateral line is less developed, its caudal peduncle is deeper, and its pectoral fin rays are fewer than in the Clover Valley speckled dace. It is also distinguished from the latter by its straighter and more oblique mouth (Hubbs and Miller 1972).

Both of these speckled dace are restricted to small springs and their outflows. Vinyard (1983) and Hubbs *et al.* (1974) located the Clover Valley speckled dace in small irrigation impoundments and in ditches radiating from them into irrigated pasture land. Hubbs *et al.* (1974) also recorded the dace in isolated portions of spring-fed streams located upstream from these impoundments. Vinyard (1983) and Hubbs *et al.* (1974) recorded the Independence Valley speckled dace from shallow marshlands spreading away from deep pools associated with spring sources.

All habitats of both species are situated on private land supporting ranch operations. Neither of these speckled dace have been widespread in historic times. Early collections made in 1934 did not locate the Independence Valley speckled dace, and located only one Clover Valley speckled dace population (Hubbs *et al.* 1974). Subsequent surveys conducted in 1965, however, located the Independence Valley speckled dace and an additional population of Clover Valley speckled dace (Hubbs *et al.* 1974). Both dace were noticeably scarce when these surveys were conducted.

Hubbs *et al.* (1974) attributed the rarity of these speckled dace to habitat alterations to facilitate irrigation, and to the presence of rainbow trout (Salmo gairdneri) and largemouth bass (Micro terus salmoides) introduced for sport fisheries. Population sizes of these speckled dace have been known to fluctuate in response to the presence of the non-native fish species. For example, in 1964 numerous Clover Valley speckled dace were present in a spring-fed impoundment that had recently been stocked with rainbow trout; however, a 1965 survey of the same locality found the dace scarce and restricted to a small portion of stream near the spring source where they could best avoid rainbow trout (Hubbs *et al.*, 1974). Vinyard (1983) failed to locate any dace at this site during several surveys in 1983.

Hubbs *et al.* (1974) noted the scarcity of the Independence Valley speckled dace in its sole habitat during 1965, the first time this fish was collected. Vinyard (1983) also observed its scarcity and recorded dace only in shallow water not inhabited by bass and bluegill (*Lepomis macirochirus*). That the presence of the latter threatens the Independence Valley speckled dace is evident by the extinction of the Independence Valley tui chub (*Gila bicolor isolata*). This chub was endemic to the same spring inhabited by the dace, and disappeared following the introduction of the bass and bluegill.

Summary of Factors Affecting the Species

Section 4(a)(1) of the Endangered Species Act (16 U.S.C. 1531 *et seq.*) and regulations (50 CFR Part 424) promulgated to implement the listing provisions of the Act set forth the procedures for adding species to the Federal Lists. A species may be determined to be an endangered or threatened species due to one or more of the five factors described in section 4(a)(1). These factors and their application to the Clover Valley speckled dace (*Rhinichthys osculus oligoporus*) and Independence Valley speckled dace (*Rhinichthys osculus lethoporus*) are as follows:

A. The Present or Threatened Destruction, Modification, or Curtailment of its Habitat or Range

As presented in the "Background" section, several factors have affected the decline of these speckled dace. Neither the dace nor their habitats were known before settlers moved into the area and began manipulating springs to facilitate irrigation. Therefore, precise limits of their historical ranges are unknown. However, information gathered about other dace occupying other springs within northern Nevada indicates these speckled dace occupied all of the streams and wetlands maintained by local spring discharge. The quantity of habitat was probably never large, because the springs utilized are small; none of these habitats are supported by springs discharging more than 2,000 gallons per minute (Garside and Schilling 1979).

Initial surveys for the Clover Valley speckled dace in 1934 found that springs occupied by the dace had been altered at a much earlier date. The outflows were impounded in small reservoirs prior to being distributed to various irrigated pastures (Hubbs *et al.* 1974). The ditched habitats existing down gradient from these reservoirs varied from watered to dried depending on where irrigated lands were situated relative to the location of reserviors. The variable water application regime, which continues today (Vinyard 1983), prohibited the long-term presence of dace and their habitat in areas downstream from the reservoirs and was probably responsible for the scarcity of dace in these streams.

Manipulation of habitats downstream from the reservoirs relegated dace populations to reserviors and the small sections of stream between the impoundments and the springs. Vinyard (1983) reported a heavy growth of aquatic vegetation in these reservoirs, which was controlled in the past by application of aquatic herbicides. Use of these particular herbicides has not continued to the present, because they are no longer manufactured. Many of these types of chemicals are toxic and, unless carefully applied are lethal to fish life. It is possible, therefore, that populations of Clover Valley speckled dace were further reduced during aquatic weed control. Continued interest in controlling aquatic vegetation indicates that these populations may be affected by future herbicide applications.

Viability of dace populations has also been affected by introductions of non-native fishes. Hubbs *et al.* (1974) reported low dace populations when rainbow trout were introduced into reservoirs. Large dace populations were, however, reported at times when trout had not been stocked and were, therefore, scarce or absent. Courtenay and Stauffer (1984) reviewed the detrimental impacts of introduced fishes on native fish populations throughout the world.

The manipulation of reservoir levels may also adversely affect dace populations by effectively decreasing the amount of pond habitat and forcing the fish to take refuge in downstream irrigation ditches. There the dace are vulnerable to extirpation when their habitat is dried by water management practices that require continuous changes in the water flow in the ditches being used to irrigate different pastures.

The known distribution of the Clover Valley speckled dace has changed over the past 20 years. It presently occurs in two springs, but has been eliminated from Warm Springs in Clover Valley (Hubbs *et al.* 1974, Vinyard 1983). Both of the existing populations are restricted to local habitats within impoundments and seasonally in their tributary streams (Vinyard 1983). The size of these populations is unknown, but each is believed to exceed several hundred individuals during the summer when they reach their maximum levels.

The Independence Valley speckled dace has never been known to be abundant and has always been known from a single spring system. Hubbs *et al.* (1974) reported the dace to be so scarce during their attempts to collect it in 1965 that it was difficult to locate the number required for taxonomic analysis. Vinyard (1983) confirmed its existence in only one spring and noted that the dace was only in those areas not occupied by largemouth bass and bluegill. Therefore, the dace presently occupies less habitat than it did in 1965. The limited habitat occupied by this speckled dace implies that any increase in ranch operations, which adversely affects its habitat, is likely to cause a population decline.

B. Overutilization for Commercial, Recreational, Scientific, or Educational Purposes

The small population size and limited distribution of these fish makes them vulnerable to deleterious depletion by collection.

C. Disease or Predation

Neither of these speckled dace have been examined for disease. A number of diseases are known to occur naturally in other speckled dace populations in the Great Basin; however, these are not believed to have a substantial impact on population viability. The establishment of non-native fishes in these habitats may have provided an avenue for foreign diseases to be introduced. Such introductions of disease have occurred in other portions of Nevada. Minckley and Deacon (1968) reported the introduction of foreign parasites into the Moapa River system in southern Nevada, which apparently accompanied the establishment of exotic fishes in the local springs and streams. Analysis of native fishes in the Moapa Valley showed that these parasites have successfully infected the local fish community and may be depressing populations. No introduced parasites or diseases are known to infect these two speckled dace.

Sport fishes introduced into North America have frequently been reported as preying upon or competing with native fishes. In many instances exotic species have caused the native fishes to be eliminated (Minckley 1973, Moyle 1976, Taylor *et al.* 1984). Extinction of the Independence Valley tui chub following introductions of largemouth bass and bluegill provides strong evidence that such introductions have significantly impacted the native fishes occupying springs in northeastern Nevada. The presence of predatory species in springs occupied by these two speckled dace is noted as being a major factor depressing their populations (Hubbs *et al.* 1974).

D. The Inadequacy of Existing Regulatory Mechanisms

These species are not protected by any known regulatory mechanisms.

E. Other Natural or Manmade Factors Affecting its Continued Existence

Vandalous acts have never been known to affect rare aquatic species in Nevada; however, threats of vandalism were made that, if carried out, would have reduced or eliminated populations of rare species.

The Service has carefully assessed the best scientific and commercial information available regarding the past, present, and future threats faced by these species in determining to propose this rule. Based on this evaluation, the preferred action is to list both the Clover Valley speckled dace and Independence Valley speckled dace as endangered. The restricted distribution of these species, and the immediate and potential problems jeopardizing their continued existence, indicate that endangered, rather than threatened, is the appropriate classification. Critical habitat is not being proposed for the reasons discussed below.

Critical Habitat

Section 4(a)(3) of the Act, as amended, requires that to the maximum extent prudent and determinable, the Secretary designate any habitat of a species which is considered to be critical habitat at the time the species is determined to be endangered or threatened. With regard to the two speckled dace, the Service finds that designation of critical habitat is not prudent at this time. As discussed under Factors A, B, and E, in the "Summary of Factors Affecting the Species," these fish are vulnerable to unlawful collection and vandalism. Designation of critical habitat would entail publication of precise habitat locations, delineating the distribution of these fishes and, therefore, would make the species more susceptible to unlawful collection and vandalism. All involved parties and landowners will be notified of the location and importance of

protecting the habitat of these species. Protection of habitat will be addressed through the recovery process and the section 7 consultation process, as explained below.

Available Conservation Measures

Conservation measures provided to species listed as endangered or threatened under the Endangered Species Act include recognition, recovery actions, requirements for Federal protection, and prohibitions against certain practices. Recognition through listing encourages and results in conservation actions by Federal, State, and private agencies, groups, and individuals. The Endangered Species Act provides for possible land acquisition and cooperation with the States and requires that recovery actions be carried out for all listed species. Such actions are initiated by the Service following listing. Some actions may be initiated prior to listing, circumstances permitting. Recovery actions that may be beneficial to these species include conservation easements and consequent effective management of the springs where the fish live, and protective measures to prevent vandalism, habitat disturbance, and introduction of predatory fish. Specific management actions that might be negotiated pursuant to conservation easements with private landowners would be leaving sufficient water in springs and outflows during irrigation work, leaving some vegetation intact in the course of clearing irrigation canals, and not using herbicides. The protection required of Federal agencies and the prohibitions against taking and harm are discussed, in part, below.

Section 7(a) of the Act, as amended, requires Federal agencies to evaluate their actions with respect to any species that is proposed or listed as endangered or threatened and with respect to its critical habitat, if any is being designated. Regulations implementing this interagency cooperation provision of the Act are codified at 50 CFR Part 402. Section 7(a)(4) requires Federal agencies to confer informally with the Service on any action that is likely to jeopardize the continued existence of a proposed species or result in destruction or adverse modification of proposed critical habitat. If a Federal action may affect a listed species or its critical habitat, the responsible Federal agency must enter into formal consultation with the Service.

The restriction of the two speckled dace to private land indicates that the involvement of Federal activities regarding these species will be minimal. The U.S. Army Corps of Engineers may be required to issue permits, in compliance with section 404 of the Clean Water Act, for activities that dredge and fill wetlands occupied by the fish. No other Federal activities are known to be involved.

The Act and implementing regulations found at 50 CFR 17.21 set forth a series of general prohibitions and exceptions that apply to all endangered wildlife. These prohibitions, in part, make it illegal for any person subject to the jurisdiction of the United States to take, import or export, ship in interstate commerce in the course of commercial activity, or sell or offer for sale in interstate or foreign commerce any listed species. It also is illegal to possess, sell, deliver, carry, transport, or ship any such wildlife that has been taken illegally. Certain exceptions apply to agents of the Service and State conservation agencies.

Permits may be issued to carry out otherwise prohibited activities involving threatened wildlife species under certain circumstances. Regulations governing permits are at 50 CFR 17.22 and 17.23. Such permits are available for scientific purposes, to enhance the propagation or survival of the species, and/or for incidental take in connection with otherwise lawful activities. In some instances, permits may be issued during a specified period of time to relieve undue economic hardship that would be suffered if such relief were not available.

Public Comments Solicited

The Service intends that any final action resulting from this proposal will be as accurate and as effective as possible. Therefore, any comments or suggestions from the public, other concerned governmental agencies, the scientific community, industry, or any other interested party concerning any aspect of this proposal are hereby solicited. Comments particularly are sought concerning:

(1) Biological, commercial trade, or other relevant data concerning any threat (or lack thereof) to the subject species;

(2) The location of any additional populations of these species and the reasons why any habitat should or should not be determined to be critical habitat as provided by Section 4 of the Act;

(3) Additional information concerning the range and distribution of these species; and

(4) Current or planned activities in the subject area and their possible impacts on these species.

Final promulgation of the regulations on these species will take into consideration the comments and any additional information received by the Service, and such communications may lead to adoption of final regulations that differ from this proposal.

The Endangered Species Act provides for a public hearing on this proposal, if requested. Requests must be filed within 45 days of the date of the proposal. Such requests must be made in writing and addressed to U.S. Fish and Wildlife Service, 500 NE., Multnomah Street, Suite 1602, Portland, Oregon 97232.

National Environmental Policy Act

The Fish and Wildlife Service has determined that an Environmental Assessment, as defined under the authority of the National Environmental Policy Act of 1969, need not be prepared in connection with regulations adopted pursuant to section 4(a) of the Endangered Species Act of 1973, as amended. A notice outlining the Service's reasons for this determination was published in the **Federal Register** on October 25, 1983 (48 FR 49244).

References Cited

Courtenay W.R., Jr., and J.R. Stauffer, Jr. (eds.). 1984. Distribution, biology, and management of exotic fishes. Johns Hopkins University Press, Baltimore.

Garside, L.J., and J.H. Schilling. 1979. Thermal waters of Nevada. Nevada Bureau of Mines and Geology, Bulletin 91.

Hubbs, C.L., and R.R. Miller. 1972. Diagnoses of new cyprinid fishes of isolated waters in the Great Basin of western North America. Transactions of the San Diego Society of Natural History, 7(8):101–106.

Hubbs, C.L., R.R. Miller, and L.C. Hubbs. 1974. Hydrographic history and relict fishes of the north-central Great Basin. Memoirs of the California Academy of Sciences, Volume VII.

Minckley, W.L. 1973. Fishes of Arizona. Arizona Game and Fish Department, Phoenix.

Minckley, W.L., and J.E. Deacon. 1968. Southwestern fishes and the enigma of "endangered species." Science, 159:1424–1432.

Moyle, P.B. 1976. Inland fishes of California. University of California Press, Berkeley.

Taylor, J.N., W.R. Courtenay, and J.A. McCann. 1984. Known impacts of exotic fishes in the continental United States. Pages 322–353, *In:* W.C. Courtenay, Jr., and J.R. Stauffer (eds.), Distribution, biology and management of exotic fishes. Johns Hopkins University Press, Baltimore.

Vinyard, G.L. 1983. A status report about the Independence Valley speckled dace (*Rhinichthys osculus lethoporus*), Independence Valley tui chub (*Gila bicolor isolata*), and Clover Valley speckled dace (*Rhinichthys osculus oligoporus*); three fishes restricted to the northeastern portion of Nevada. Unpublished report to the U.S. Fish and Wildlife Service, Reno.

Author

The primary author of this proposed rule is Mr. Donald W. Sada, U.S. Fish and Wildlife Service, Great Basin Complex, 4600 Kietzke Lane, Reno, Nevada 89502 (702/784–5227):

List of Subjects in 50 CFR Part 17

Endangered and threatened wildlife, Fish, Marine mammals, Plants (agriculture).

Proposed Regulations Promulgation

Accordingly, it is hereby proposed to amend Part 17, Subchapter B of Chapter I, Title 50 of the Code of Federal Regulations, as set forth below:

PART 17—[AMENDED]

1. The authority citation for Part 17 continues to read as follows:

Authority: Pub. L. 93–205, 87 Stat. 884; Pub. L. 94–359, 90 Stat. 911; Pub. L. 95–632, 92 Stat. 3751; Pub. L. 96–159, 93 Stat. 1225; Pub. L. 97–304, 96 Stat. 1411 (16 U.S.C. 1531 *et seq.*).

2. It is proposed to amend § 17.11(h) by adding the following, in alphabetical order under "FISHES," to the List of Endangered and Threatened Wildlife:

§ 17.11 Endangered and threatened wildlife.

* * * * *

(h) * * *

Species		Historic range	Vertebrate population where endangered or threatened	Status	When listed	Critical habitat	Special rules
Common name	Scientific name						
Fishes:							
Dace, Clover Valley speckled	*Rhinichthys osculus oligoporus*	U.S.A. (NV)	Entire	E		NA	NA
Dace, Indpendence Valley speckled	*Rhinichthys osculus lethoporus*	U.S.A. (NV)	Entire	E		NA	NA

Dated: August 26, 1987.

Susan Recce,

Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 87–21582 Filed 9–17–87; 8:45 am]

BILLING CODE 4310–55–W

Notices

Federal Register
Vol. 52, No. 181
Friday, September 18, 1987

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Cooperative State Research Service

National Agricultural Research and Extension Users Advisory Board; Meeting

According to the Federal Advisory Committee Act of October 6, 1972 (Pub. L. 92-463, 86 Stat. 770-776), the Office of Grants and Program Systems, Cooperative State Research Service, announces the following meeting:

Name: National Agricultural Research and Extension Users Advisory Board.

Date: October 26-28, 1987.

Time: 8:00 a.m.—5:30 p.m., October 26-27, 1987

8:00 a.m.—12:00 Noon, October 28, 1987

Place: Sheraton World, Orlando, Florida.

Type of Meeting: Open to the public. Persons may participate in the meeting and site visits as time and space permit.

Comments: The public may file written comments before or after the meeting with the contact person below.

Purpose: The Board will be meeting with the Joint Council on Food and Agricultural Sciences to explore programmatic opportunities of encouraging cooperation of scientists in land-grant universities, other universities, Federal laboratories, and industry to enhance the potential of agriculture biotechnology.

Contact Person for Agenda and More Information: Marshall Tarkington, Executive Secretary, National Agricultural Research and Extension Users Advisory Board; Room 316-A, Administration Building, U.S. Department of Agriculture, Washington, DC 20250; telephone (202) 447-3684.

Done in Washington, DC, this 4th day of September 1987.

John Patrick Jordan,

Administrator.

[FR Doc. 87-21635 Filed 9-17-87; 8:45 am]

BILLING CODE 3410-22-M

Food and Nutrition Service

Food Stamp Program; Demonstration Projects Using Electronic Benefit Transfer (EBT) Technology

AGENCY: Food and Nutrition Service, USDA.

ACTION: Notice of intent.

SUMMARY: This notice announces the Department of Agriculture's intention to sponsor demonstrations of electronic methods of issuing food stamp benefits. These demonstrations will operate under the authority of subsections 17(a) and (b) of the Food Stamp Act of 1977 (7 U.S.C. 2026(a) and (b)). The demonstrations will allow the Department to gain further knowledge of the impact of electronic issuance technologies on the food stamp issuance, redemption and reconciliation processes. They are an outgrowth of the Electronic Benefit Transfer (EBT) Demonstration currently being conducted in Reading, Pennsylvania.

The Department is first soliciting concept papers from interested State and local agencies. Based on an evaluation of these concept papers, full proposals will be solicited from a limited number of sites. A final selection decision will be made based on the full proposals. It is expected that as many as three sites will be chosen. In selecting sites, particular emphasis will be placed on systems with potential to reduce current issuance costs and improve accountability and security, while maintaining or improving service to recipients.

DATES: This action is effective September 18, 1987. Concept papers should be received no later than November 17, 1987.

ADDRESSES: Completed concept papers shall be submitted to the: Director, Program Development Division, Family Nutrition Programs, Food and Nutrition Service, USDA, Room 711, 3101 Park Center Drive, Alexandria, Va. 22302.

FOR FURTHER INFORMATION CONTACT: Russ Gardiner, Supervisor, RD&E Section, Administation Branch, Program Development Division, Family Nutrition Programs, Food and Nutrition Service, USDA, Alexandria, Va. 22302.

SUPPLEMENTARY INFORMATION:

Classification

Executive Order 12291

This notice has been reviewed under Executive Order 12291 and Secretary's Memorandum No. 1512-1, and has been classified not major because the provisions will not result in: (1) An annual effect on the economy of $100 million or more; (2) a major increase in costs or prices for consumers, industries, Federal, State or local governments, or geographical regions; or (3) significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

Executive Order 12372

The Food Stamp Program is listed in the Catalog of Federal Domestic Assistance under No. 10551. For the reasons set forth in the final rule and related notice to 7 CFR Part 3015, Subpart V (48 FR 29115), this program is excluded from the scope of Executive Order 12372 which requires intergovernmental consultation with State and local officials.

Regulatory Flexibility Act

This notice has also been reviewed with regard to the requirements of the Regulatory Flexibility Act (Pub. L. 96-354, 94 Stat. 1164, September 19, 1980). S. Anna Kondratas, Administrator, Food and Nutrition Service (FNS), has certified that the action will not have a significant economic impact on a substantial number of small entities.

Reporting and Recordkeeping

This notice does not contain reporting and recordkeeping requirements subject to approval by the Office of Management and Budget under the provisions of the paperwork Reduction Act of 1980 (44 U.S.C. 3507).

Since the early 1980's, the Department has been experimenting with various means to improve the efficiency and

integrity of the Food Stamp Program (FSP). One major effort has been the initiation of a demonstration project which tests the use of an electronic benefit transfer (EBT) system in the benefit issuance and redemption process.

On January 10, 1983, the Department issued a Request for Proposal (RFP) seeking an independent contractor to demonstrate an EBT system in cooperation with State and local food stamp authorities, retailers, and financial institutions. In July 1983, FNS awarded a contract to Planning Research Corporation (PRC). The operational site was Reading, Pennsylvania. The system began operating in October 1984. It served an average food stamp caseload of about 3,400 households, who made over 25,000 electronic food purchases in about 100 retail food stores each month. The demonstration ended in December 1985; the Pennsylvania Department of Public Welfare (PDPW) subsequently assumed responsibility for extended demonstration project operations.

In parallel with that demonstration contract, FNS awarded a contract on June 23, 1983 to Abt Associates, Inc. to evaluate the demonstration. The evaluation's main objective was to compare the EBT system to the coupon-based issuance and redemption procedures previously utilized in Reading. The evaluation measured the difference between the two systems in terms of their administrative cost, their vulnerability to benefit loss and abuse, and their impacts on participating food retailers, recipients, and financial institutions.

In the EBT demonstration, the recipient has a magnetic-stripe plastic card and a computerized account at the EBT Center. When they are certified eligible for benefits, food stamp applicants receive the card, training in how to use it, and a secret four-digit personal identification number (PIN). Benefits are electronically deposited in each household's account. Once benefits are posted to accounts, recipients may use them to buy food in any store participating in the demonstration.

All retailers authorized to participate in the Food Stamp Program and located within a five-mile radius of central Reading are eligible to take part in the demonstration, and virtually all of them do participate. Checkout counters are equipped with terminals. To buy food with EBT benefits, the recipient presents the EBT card to the cashier, who passes it through the terminal's card reader. The recipient keys in his or her PIN, which is verified within the terminal. The cashier then enters the amount of the purchase. The terminal makes a dial-up connection with the EBT Center computer, which checks the recipient's account, debits it for the amount of the purchase, credits the grocer's account, and sends an authorizing message back to the store terminal. The terminal prints a receipt for the recipient showing the purchase amount and the remaining balance in the food stamp account.

Once a day, the EBT Center runs a program to total all retailer credits. Center staff then initiate an electronic funds transfer process, using the Automated Clearing House (ACH) network operated by the Federal Reserve. Grocers' bank accounts are credited for their food stamp sales the following business day.

The evaluation results, as compiled by Abt Associates, were as follows:

(1) The EBT system was found to be operationally feasible. It worked and was well received by the various parties involved in its use.

(2) Retailers prefer the EBT system to coupons, primarily because it reduces the post-sale handling effort required for coupons.

(3) Recipients prefer the EBT system to coupons—they found it easier to use and spent less time and money than they previously had spent to obtain coupons.

(4) Banks strongly prefer the EBT system because their role as issuance agents is eliminated and their costs for handling and redeeming food stamp benefits are substantially reduced.

(5) By eliminating cash change, an EBT system directs all food stamp benefits to food purchases.

(6) Due to the short duration of project operations, the impact of the EBT system in reducing error, fraud and abuse was generally unmeasurable.

(7) EBT system costs exceeded ATP/coupon costs by about 9:1. This was primarily due to high operating costs and the small demonstration caseload. (Fixed costs were averaged over a relatively small number of households).

(8) EBT operating costs could be reduced by increasing the size of the caseload, integrating the system, purchasing rather than leasing equipment, and/or operating the system in a routine setting.

(9) Integrated systems offer the most promise for reducing program costs because system costs can either be spread over a larger number of users or more organizations can share in such costs. Integration can be accomplished by developing a combined EBT system which would merge food stamps and other benefit programs operated by the State, i.e., Aid to Families with Dependent Children (AFDC), General Assistance (GA). Alternatively, the food stamp EBT system could be "piggy backed" onto a commercial point of sale (POS) system, becoming one of multiple users.

The final report on *The Impact of An Electronic Benefit Transfer System in the Food Stamp Program*, Abt Associates, Inc., May 1987, can be obtained from Dr. Carol Olander, Project Officer, Evaluation Staff, Office of Analysis and Evaluation, FNS, USDA, Room 1016, 3101 Park Center Drive, Alexandria, Va. 22302. Telephone: (703) 756–3115.

In January 1986, the Pennsylvania State Department of Public Welfare (PDPW) assumed responsibility from PRC for the Extended EBT Demonstration Project. During the extension, PDPW first took over administration of the PRC contract, next took over operation of the project using the original computer equipment, and in the third stage is operating the system on existing State equipment. This latter stage of integration with other agency functions has been accompanied by technical enhancements designed to improve the system's service to recipients and retailers. The evaluation of this extension will assess the costs and benefits of the extension on major constituencies, e.g., FNS, recipients, food retailers, and financial institutions. The final report will also describe State agency procedures for assuming operational responsibilities. This information will assist FNS in making decisions regarding the future of EBT in the Food Stamp Program.

Related Studies

On April 25, 1986, FNS announced in the *Commerce Business Daily* a study to review The Feasibility of Off-Line System Applications to Food Stamp Program Functions. This study will determine the relevance and practicality of applying off-line technology to food stamp operations in view of rapid technological developments, lower costs and anticipated user trends. In contrast to the Reading EBT Project, where household benefits are maintained on a central computer file, off-line technology stores recipient data in an individual access device that is in the possession of each household. Direct and simultaneous communications with a central computer are not required to access household data. The expected products of the study are an analysis of off-line technology applications to a range of food stamp functions, further review of applications judged acceptable, and cost estimates for development and operation. The findings will provide FNS with a sound basis for making decisions about the appropriateness of demonstrating a

variety of off-line applications. The study began in October 1986 and the final report is due to FNS in the latter half of 1987.

Notice of Intent

Subsections 17(a) and (b) of the Food Stamp Act of 1977 permit the Department of Agriculture to undertake research that will improve the administration and effectiveness of the Food Stamp Program in delivering nutrition-related benefits, and to conduct, on a trial basis, in one or more areas of the United States, pilot or experimental projects designed to test program changes which might increase the efficiency of the Food Stamp Program and improve the delivery of benefits to eligible households. Accordingly, the Department announces its intent to sponsor demonstrations using electronic benefit transfer (EBT) technology in the issuance and redemption of food stamp benefits. Under this demonstraton, States and/or local agencies will design, develop, implement and operate an EBT system. If a vendor is used in the operation of such a system, the State will be solely responsible for ensuring its performance.

FNS Research Priorities

The findings from the Reading, Pennsylvania EBT Demonstration, with the exception of the administrative cost differential, were encouraging to the Department. USDA now wants to determine if it is possible to design and operate an EBT system which will be secure and acceptable to participants, yet reduce total costs below those associated with the current coupon system. This demonstration project's goal will be to determine if these three outcomes can be simultaneously achieved.

The Department has identified three types of EBT system configurations which it believes would be useful to test in the Food Stamp Program. It is recognized that other acceptable EBT systems designs may exist; the following list is not intended to be exhaustive. However, USDA wishes to stress that it will not be demonstrating off-line technologies, i.e., the use of a self-contained benefit access device, at this time. The results of the feasibility study discussed earlier, which is currently being conducted, will serve to guide our further actions in this area. Descriptions of the three EBT system configurations follow:

(1) The use of food stamp benefit cards in conjunction with an existing, private electronic funds transfer (EFT) system. This would be a "piggy-back" system where food stamp benefit cards would be read by point-of-sale (POS) machines. States would be required to ensure that all authorized stores within the boundaries of the demonstration area are given the opportunity to have POS devices located in their stores.

(2) An EBT system which is backed up by a coupon issuance system. This would serve as an alternative to ensuring that POS devices were available to all stores within the demonstration area. States would set up coupon issuance terminals at designated issuance points where benefit cards could be read, debited and food stamp coupons issued.

(3) An EBT/cash benefit card system, where a single card provides access to food stamp benefits, AFDC, GA and/or other benefits. Food stamp benefits would have to be separately identified to preserve their use for food purchases at authorized stores.

Scope of Project

This notice may result in one or more cooperative agreements with a State agency or agencies for the design, development, implementation and operation of an EBT systems for the issuance of FSP benefits. FNS has chosen a cooperative agreement as the appropriate funding mechanism because FNS will be substantially involved in the development, management and/or oversight of the project. State and/or local agencies are invited to submit concept papers in response to this Notice. Local agency submissions must have the support of their respective State agency. All concept papers will be formally reviewed and evaluated based on the criteria set forth in this notice. Evaluation of the concept papers is expected to take 30 days. Following the evaluation, a limited number of State and/or local agencies will be given six months in which to submit full proposals. (It is FNS' belief that six months will be sufficient to allow a State agency to initiate a contract with a vendor(s), if the use of any is planned, which could be activated based on the availability of Federal funds; and that design work could begin immediately upon State agency selection.) It should be noted that every agency asked to submit a full proposal may not be selected as a project site.

Subject to the availability of funds, FNS has earmarked approximately $1.8 million for demonstration project operations. The number of sites actually selected will depend on the quality of the proposals and their costs. It is possible that only one site will be selected or that numerous sites will be selected. 100% funding of the costs of project design, development and implementation, up to the approved budget amount, will be provided. Since this is a developmental area, FNS may also provide for up to 50/50 cost sharing should such costs go above the specified cap for 100% funding. It should be emphasized, however, that FNS is looking to develop a cost-effective EBT system and that costs will be a major factor both in final project selection and long term decisions. Ongoing operational costs will be reimbursed at the normal 50-50 match rate, with Federal costs capped at per-care-month costs associated with a coupon issuance costs.

The demonstration project shall be conducted in phases. Movement from one phase to the next shall be predicated on a "GO/NO GO" decision from FNS. In Phase I, the State agency shall design an EBT system to meet the FSP functional and special requirements as specified in this Notice and mandated by laws and regulations. Further, each system shall be designed to meet specific performance standards prescribed by FNS. Performance standards shall be provided to States selected to submit full proposals. They will be tailored to the proposed system configuration and will address issues such as processing capacity, response times, and system reliability, security and ease of use.

As part of Phase II, each State agency shall develop the EBT system and then test, on a limited scale, its functional capabilities. Such tests must include all the system operators and include a small sample of recipients, retailers, and finanicial institutions.

In Phase III, each State agency shall oversee the implementation and operation of the EBT demonstration system. As part of each demonstration project, the State agency shall be responsible for providing, at a minimum, all management, coordination between major participants, equipment, software, and services (e.g., site preparation, equipment installation and maintenance, application software development, training, system documentation, transition support, and necessary evaluation data). The State agency shall be the primary point of contact for the Federal Government. Demonstration project participants shall coordinate all efforts through the State agency and shall present all issues/questions requiring decisions to the State agency for resolution.

The EBT System

This section provides detailed information on the operational

requirements for an EBT demonstration project.

(1) *EBT Operating Environment and Functional Responsibilities.* An EBT system for the issuance of FSP benefits requires changes to the present operating environment and functional responsibilities. The design of the State agency's proposed EBT system shall dictate, to a large extent, the operating environment and the major participants' functional responsibilities. The EBT system shall provide manual and automated procedures necessary to satisfy the functional requirements and the special FSP requirements as described in this document.

An overview of the basic EBT system's operating environment and the functional responsibilities, by program function, are provided below:

(a) Authorizing client benefits—

• Certifying households in accordance with FSP regulations.

• Establishing certified households on an automated Master File and Issuance Authorization File.

• Issuing identification cards and benefit access devices.

• Assigning personal identification numbers (PIN's) or providing an alternative verification mechanism.

• Initializing benefit cards/accounts.

• Training participants in system usage.

• Authorizing benefit delivery.

• Posting benefits to clients' accounts.

• Providing recipients' access to information on benefit availability.

• Inventorying and securing accountable documents, including unissued blank transaction documents.

(b) Providing food benefits to clients—

• Verifying the identity of authorized recipients or recipients' representatives at issuance terminals or POS.

• Debiting/crediting client benefit accounts at POS in conjunction with appropriate account and balance validation.

• Providing back-up purchase procedures for those instances in which the electronic system is not functional.

• Delivering food benefits to clients or clients' representatives.

• Providing clients' receipts for benefits redeemed and balance remaining at POS.

(c) Crediting retailers and financial institutions for benefits redeemed—

• Verifying bank account information for all retailers involved in the system.

• Creating records of EBT transactions and totaling all credits accumulated by each retailer.

• Preparing a daily Automated Clearing House (ACH) tape with information on benefits redeemed for each retailer.

• Transmitting the ACH tape to a financial clearinghouse institution for transmission to the Federal Reserve.

• Transferring the ACH tape to the Federal Reserve using EFT technology. The Federal Reserve takes action which results in crediting retailers accounts, debiting and crediting the financial clearinghouse accounts and debiting USDA's Treasury Account.

• Providing deposit information to retailers on a timely basis.

(d) Benefit Reconciliation and Management Report Production—

• Reconciling posted benefits to the Issuance Authorization File.

• Reconciling individual recipient account balances against account activities on a daily basis.

• Reconciling individual retail stores' food stamp transactions to deposit on a daily basis

• Reconciling total funds into, exiting from, and, remaining in the system.

• Verifying retailer credits against deposit information entered into the ACH network.

• Transmitting information to FNS on retailer deposits.

• Producing management reports.

• Maintaining audit trails.

(e) Managing Retailer Participation—

• Receiving information from FNS on stores authorized or disqualified to redeem food stamp benefits.

• Ensuring that stores have the necessary equipment and supplies and that such equipment and supplies are removed when stores lose their authorization.

• Ensuring that equipment is maintained in working order.

• Training store employees in system operation.

• Providing a mechanism for compliance investigations.

(2) *Special Food Stamp Program Requirements.* The EBT system shall maintain the level and quality of service to participants that is mandated by law and program regulations. If there is no way to avoid a conflict with basic program requirements, any deviations necessary to accomplish a successful project implementation must be described and waivers of requirements, where necessary to implement the design, must be requested.

The State agency shall consider the following items in the design of the EBT demonstration system, the demonstration of the EBT system, and the possible transition to a broader EBT system implementation.

• Recipient Access: The EBT system shall provide for minimal disruption of recipients' access to retail outlets. The system, therefore, must ensure the cooperation of currently authorized stores. Because recipient access is a critical element of the FSP, the State must consider how retailers' participation will be maintained under the EBT system.

• Equal Treatment: The EBT system shall maintain equal treatment for food stamp customers. Retailers may be tempted to require recipients to check out at exclusive registers or particular areas of the store. It will not be acceptable to establish special lines which are only for food stamp customers. However, if special lines are established for check cashers and holders of other debit cards, food stamp customers could also be assigned to such lines. Strategy for avoiding unequal treatment and negative impacts on food stamp transaction time should be developed.

• Knowledge of Allotment Balance: The EBT system shall provide recipients with informational access to the system without their having to make a purchase. Recipients must also receive information about their allotment balance at the time of food purchases. Households will need to know their balance in order to plan purchases.

• Retention of Remaining Monthly Balance: The EBT system shall allow for the carryover from month to month of accumulated balances of household benefits during the course of the demonstration. However, if household accounts are inactive for a period of time, the State could arrange to "store" such benefits pending recontact by recipients.

• Replacement of Lost, Stolen or Damaged Cards: The EBT system should be capable of quickly replacing the benefit card for any household claiming its damage or loss, while ensuring that the household does not obtain more than one account with which to access the system. Similarly, households believing that someone else has unauthorized knowledge of their PIN or code must be able to obtain a new PIN within one business day.

• Benefit Adjustment: Procedures must be available to restore/debit benefits and sales that have been erroneously debited/credited. Authority for such functions shall be limited to appropriate managers and any corrections must be fully documented.

• Expedited Service: Program regulations at § 273.2(i) require that certain types of households demonstrating immediate need be provided benefits as soon as possible. Therefore, the EBT system should provide for the creation of a household

issuance record file, and production and issuance of identification and benefit cards within the specified timeframes.

• Household Mobility: The EBT system must provide a mechanism to allow households leaving or entering an EBT project area to convey their current benefit allotment with them. If a "pure" EBT system is in place, appropriate benefits must be converted to coupons for those leaving the demonstration area. This provision is intended to accommodate those situations where participants are permanently or temporarily (vacation, emergency, etc.) relocating their place of residence. Requests for instrument conversion solely for purposes of shopping across boundary lines shall not be approved.

• Project Boundary and Transition Problems: The area selected for the pilot test site should ideally be a contained grocery shopping area, in order to minimize participants shopping in and out of the test site. The State agency shall specify how transitional problems will be handled if all stores are not simultaneously brought into the system.

• Restricted Access to System: The EBT system shall include procedures to limit access to information about household entitlement. While households and their representatives need easy access, this need cannot open the system to abuse by retailers, cashiers, or other employees. If participants must provide a PIN or other access code to enable verification, this code should not subsequently be available for a clerk or others to use in obtaining unauthorized benefits. Similarly, if households fail to exhaust the contents of their accounts, unauthorized individuals should not be able to divert the remaining entitlement to their own use. These are critical elements to the success of this system, and must be provided for in any design considered.

• Issuance of Household Benefit Card: The EBT system shall provide for separation of certification, issuance and card initialization functions. By substituting the benefit card for other authorizing documents, such as the ATP, access to benefits is more rapid since the intermediate step of ATP exchange for food coupons is removed. Elimination of the ATP, however, makes security of the benefit card more important since it becomes the authorizing instrument for access to benefits. By having benefit card production and initialization done by an issuance unit employee or staff other than certification unit personnel, no single agency employee or unit will have the ability to both authorize and provide access to the benefit allotments.

• Retailer Identification/Clearance: The EBT system shall include a retailer validation check to ensure that only currently-authorized stores can access the system. Stores whose program participation has been withdrawn or disqualified must be denied access immediately, while newly authorized stores must be included in the system quickly to ensure maximum convenience for participants. Stores newly authorized should be granted system access as quickly as possible.

• System Reliability and Back-up: The reliability of the EBT system is absolutely essential to its success. In contrast to existing credit-card or debit-card systems, the unavailability of the EBT system, even temporarily, would impose severe hardship on households largely or totally dependent on it for purchasing their food. This may be addressed through full redundancy of critical system components, through a manual back-up system for emergency use or through an alternative mechanism (or some combination). Any system chosen must be fully consistent with FSP security requirements and acceptable to stores.

• Applicability to Entire Food Stamp Program on a Larger Scale: The EBT demonstration will originally be implemented in a small scale environment. However, the design of the EBT demonstration system must be suitable for a larger scale implementation, i.e., in project areas or jurisdictions with large-scale caseloads, should this later be deemed desirable.

• Integrity: The system shall be designed to ensure the integrity of personnel and data through separation of responsibilities, data reconciliation and other safeguards such as encryption, limited access and security bonding. Points of particular vulnerability in an EBT system include: tampering with or creating recipient accounts; manipulation of retailer accounts; erroneous posting of issuances to recipients accounts; and tampering with information on the National Automated Clearing House Association (NACHA) tape.

(3) *Evaluation of the Demonstration.* A comprehensive description and impact evaluation of each demonstration will be independently carried out for FNS through an independent contractor. State and local welfare agency staff as well as any vendors involved in the demonstration are expected to work closely with the evaluation contractor, and cooperate fully in the evaluation. This section describes the evaluation and the requirements it places on the demonstration site. The evaluation's general purpose is to obtain information that can be used in making decisions about agency support for alternative issuance systems. Four more specific evaluation objectives are stated below:

• Describe and compare the development, operation and performance of each demonstration system that is implemented.

• Estimate and compare the costs for each demonstration system that are assumed by FNS, State and local food stamp agencies, demonstration vendors, food retailers, recipients, and financial institutions.

• Assess and compare the feasibility of extending each demonstration system.

• Provide technical assistance to FNS.

The State agency shall provide, as part of the proposed system, those procedures and/or mechanisms needed to produce data specified by the evaluation contractor. At a minimum, each demonstration system shall be required to:

(a) Routinely report costs associated with system design, development and operations. Cost data shall be based on a complete and enumerated inventory of resources used to develop and implement the system. Categorical costs to major participant groups, i.e., State and local welfare agencies, vendors, etc., shall be identified.

(b) Maintain and submit a variety of documents that describe the development, operation and performance of the demonstration. These documents shall include, but are not limited to: (1) Planning materials (e.g., design documents, system test results, and training manuals); (2) communications between system participants (e.g., memoranda and meeting notes); (3) materials pertinent to system operation (e.g., organizational charts, position descriptions, operator manuals, benefit usage and reconciliation and (4) performance indicators (e.g., problem call logs, response time data, line busy reports, downtime logs and reconciliation data).

(c) Periodically complete data collection forms developed by the evaluation contractor in cases where existing information is unavailable or inadequate. This activity shall include, but not be limited to maintaining logs that describe recipient issuance problems reported to Food Stamp Program or vendor staff and completing time ladders to identify time spent on tasks by select Food Stamp Program and vendor staff.

(d) Participate in monthly interviews conducted by the evaluation contractor. Personal interviews shall be conducted

periodically with key staff in vendor organization(s), State and local food stamp agencies, authorized retail food stores, and participating financial institutions. Phone interviews shall be carried out each month with a similar sample of key system providers.

(e) Facilitate a variety of site observations and system tests to be conducted by the evaluation contractor. These activities include but shall not be limited to: system planning meetings, acceptance testing, sessions and security analyses. Demonstration vendors shall provide a schedule of system activities to the evaluation contractor at the beginning of each month and interim updates as needed.

Criteria for Sponsoring Electronic Issuance Demonstrations

- The project must be proposed by a State or local agency. Local agencies wishing to apply must obtain the support of the State agency.
- Initial operations on a Statewide basis will not be permitted. However, if FNS determines that the initial, limited area project is successful, expansion may be permitted.
- The project shall not have an adverse impact on the amount of benefits available to eligible households.
- The project must not test unproven technology. Rather, FNS is seeking the adaptation of established technology to the FSP environment.
- The project must not result in any degradation of State or Federal fraud controls in the certification or issuance processes. The system must be secure from tampering to prohibit unauthorized access to client and/or financial information, and the State must agree to do or to permit security testing of the system. Should any losses occur, the State agency would be strictly liable.
- Each selected site will receive a specified amount for design, developmental and implementation costs. Allowable expenses over that amount may be reimbursed at up to a 50-50 match rate. Ongoing project operation costs will be reimbursed at the normal 50-50 match rate, with Federal costs capped at percase worth costs associated with coupon issuance costs.

Design costs would include the development of operating manuals, the system test plan, the implementation plan and system design. Development cost would include acquiring and/or modifying system hardware which will be used for initial testing, writing and testing software modules, resolving outstanding design issues, preparing for system implementation, and testing the system prototype. In the implementation phase, costs would include equipment installation and testing, acceptance testing, and training. All evaluation costs incurred as a result of cooperating with the evaluation contractor and approved in advance will be eligible for 100% Federal funding. All demonstration activity is subject to the availability of FY '88 Section 17 funds.

- The concept paper should address research priorities stated by FNS in this notice. Proposals containing certain aspects which are not specifically stated research priorities and/or go beyond the scope of electronic benefit technology envisioned by FNS should be justified and fully explained as an attachment to the concept paper.
- System design, development, implementation, and operations shall be carried out by the proposing State or local agency and/or a contractor(s) of the State or local agency which has been selected in a manner that provides maximum open and free competition or on a noncompetitive basis under circumstances permitted by OMB Circular A-102, Attachment O, Subpart 11.d.
- The State must agree to participate in an evaluation of the system's cost effectiveness and must agree to provide the data described above in No. (3), *Evaluation of the Demonstration.*
- Any selected project will be monitored by an advisory committee composed of State, FNS regional and national office staff. The State will be required to keep FNS apprised of the status of the project at every stage of development. The committee will review all major project documents, cost and performance data, and conduct periodic on-site observations.
- The project's level of staffing shall not have an adverse impact on the level of staffing committed to other food stamp related activities.
- Once implemented, the project shall operate under demonstration status for a period mutually agreed upon between the State and FNS. FNS currently envisions such projects operating for up to three years. However, a decision on continued operation will be made on an annual basis.

The Concept Paper

To avoid having all State and local agencies complete the process of full proposal preparation, interested State and local agencies are being required to initially submit brief concept papers. Using the criteria stated in the following section, FNS will select those State or local agencies from which full proposals are desired.

It is in the full proposal stage that States will be expected to initiate contracts with vendors, if they are appropriate to project operations. Such contracts would be established under the caveat that final acceptance was subject to the availability of Federal funds.

I. *System Description.* In up to seven single-spaced pages, provide a brief description of how the EBT system would operate. Indicate how your system addresses FNS' stated research priorities. Include a short description of how each of the following program functions would be carried out: (a) Authorizing client benefits; (b) providing food benefits to clients; (c) crediting retailers and financial institutions for benefits accepted; (b) benefit reconciliation and management report production; and (e) managing retailer participation. Describe the different agencies which would be involved in the operation and the functions which they would perform. If the use of a contractor(s) is planned, describe what functions it would perform. Describe how the proposed EBT system would improve your current coupon issuance/reconciliation process. If you are able to quantify such benefits, please do so. Additional pages may be added for flowcharts or graphic presentations.

II. *Site Description.* In up to four single-spaced pages, provide the following information on the area where you would implement the EBT demonstration. If an alternative site(s) is being proposed, four pages per site will be accepted.

(a) Number of food stamp households;

(b) Number of authorized retailers;

(c) Food stamp household demographics, with particular emphasis on the shopping patterns of the proposed project participants;

(d) Current level of automation for food stamp certification and issuance functions and a description of how the proposed system would interface with the existing system; and

(e) Costs associated with the existing issuance system. This should be monthly per household issuance costs which would include issuance file generation, preparation and mailing of authorization documents or coupons, vendor fees for any aspect of benefit delivery or reconciliation, and other reconciliation costs. Benefit losses associated with duplicate issuances or other misapplication of benefits should be separately identified.

III. *Management.* Describe, in up to two single-spaced pages, how the EBT project would be managed through design, development, implementation and operation. Identify who, by position title, would be responsible for the

various project phases. Include an organizational chart. If you plan on using a contractor, describe in what capacity.

FNS has tentatively established that State agencies whose concept papers are accepted would need 180 days in which to submit full proposals, including cost estimates. Provide a proposed timeline for development and submission of a full proposal, indicating if the 180 day deadline could be met, and if not, why not.

IV. *Related Experience.* Describe, in up to three single-spaced pages, previous experience of the State agency in developing, implementing and operating automated systems applications. If currently employed staff possesses specific background in electronic payment systems or related technology and will be working on the project, describe that experience.

V. *Support of Affected Groups.* The successful functioning of an EBT project depends on the commitment of all affected groups, i.e., food stamp households, retailers and financial institutions. Describe, in up to two single-spaced pages, the contact you have made with advocacy and retailer groups and potentially affected financial institutions, and their reactions (both positive and negative) to the project's concept.

Evaluation of the Concept Papers

FNS has established the following weights which will be used in evaluating the concept papers. These weights have been established in a manner which will give the most recognition to those proposals showing insight and creativity in system design, development and operation. Later phases of selection will focus on cost issues. In addition, points will be deducted if the page length exceeds the maximum stated above.

Criteria	Maximum value
(1) System Description	40
(2) Site Description	20
(3) Management	20
(4) Related Experience	15
(5) Support of Affected Groups	5

Date: September 15, 1987.

Anna Kondratas,

Administrator.

[FR Doc. 87-21627 Filed 9-17-87; 8:45 am]

BILLING CODE 3410-30-M

Forest Service

Electronic Site Rental Fee Schedule for the Northern Region (R-1)

AGENCY: Forest Service, USDA.

ACTION: Notice of adoption of rental fee schedule for electronic sites.

SUMMARY: The Forest Service hereby gives notice that it is adopting a new schedule of rental fees for electronic uses on National Forest System lands in the Northern Region.

The fee schedule provides an annual rental fee for electronic uses based on the type of use authorized. Electronic site fees will be updated annually through application of the Implicit Price Deflator—Gross National Product (IPD-GNP) and the fee schedule will be reviewed every 5 years based on an updated market analysis and adjusted accordingly as required by agency special-use rules at 36 CFR 251.57(a). The schedule is based on sound business management principles and as required by law is in accordance with comparable commercial practices for establishing fair market rental fees.

This schedule of rental fees has been approved and issued as a Regional Supplement to Forest Service Manual 2720—Special Uses Management.

EFFECTIVE DATE: The fee schedule is effective September 8, 1987.

FOR FURTHER INFORMATION CONTACT: Jim Schoenbaum, (406) 329-3601 or Jim Hathaway, (406) 329-3110.

Background Information

We are publishing a new fee schedule in response to new direction from the Chief, Forest Service. Revised Forest Service National Policy contained in **Federal Register** Vol. 50, p. 40574, dated October 4, 1985, established that electronic use fees are now to be based on the fair market value of the rights and privileges authorized.

Since the early 1950's, through numerous directives, Congress has directed that users of Federal land and facilities pay fees representing fair market value as an equitable return to the public. Most recently, the Federal Land Policy and Management Act of 1976 included this requirement. Past fee systems involving investment value or other methods were not fully consistent with this direction. Although holders have received the benefits of comparatively low fees for many years, such fees are not equitable to other National Forest System users or the general public as land owners.

On April 30, 1987, the Northern Region of the Forest Service published a proposed fee schedule for electronic communication sites (52 FR 15740) and requested comments. That schedule set forth proposed annual rental fees for different types of electronic use in Montana, North Dakota, part of South Dakota and north Idaho. Comments on the proposal were due by July 1, 1987.

Summary of Public Responses

The Region received a total of 228 written responses to the proposal; of these, 37 were from existing holders of electronic site permits. The Northern Region has 305 existing electronic site special-use authorizations. All holders were provided direct notice of the fee schedule proposal. All comments were reviewed and given full consideration in reaching a decision on the final fee schedule. Major concerns are summarized by topic. The number and percentage of comments by type of respondent were as follows:

Type of respondent	No.	Percent
1. Individuals	[1] 177	78
2. Amateur radio organizations/affiliations	14	6
3. Federal, State, local government agencies/representatives	11	5
4. Utility companies (electric and telephone)	7	3
5. TV/radio companies/broadcasters	6	3
6. Cable TV/broadcast translator districts and associations	10	4
7. Industry/business	3	1
Total	228	100

[1] 160 were from broadcast translator subscribers, 157 representing one translator district.

The comments addressed a number of topics relative to nine basic categories of electronic communication sites and their proposed fees. The number and percentage of comments by use type are shown below. This total is slightly higher than the total shown in the first chart because four respondents each addressed two different use categories.

Responses per use type	No.	Percent
1. Common carrier microwave	6	3
2. Industrial (and military) microwave	3	1
3. Passive reflector	1	0.5
4. TV and radio broadcast	3	1
5. Cable TV	4	2
6. Broadcast translators	[1] 169	73
7. Two-way radio (site only and with FS building space)	7	3
8. Commercial communicator	1	0.5
9. Miscellaneous uses (including amateur and personal antenna	38	16
Total	232	100

[1] 160 were from individual subscribers, 157 representing one translator district; six from other translator districts; three from Government representatives.

Broadcast Translators

Proposal: The market study supports an annual fee of $900 as fair market value for this use.

Comments Received: One hundred sixty-nine respondents expressed concern over fee increases. One hundred sixty of these were from subscribers not directly subject to special-use permit fees who commented about anticipated increases in membership rates, tax increases, or the rising cost of living.

Many broadcast translator respondents felt that the proposed fee schedule should recognize tax support attributable to translator installations. They tend to view fee increases as "double taxation" because the Federal land is owned by taxpayers. They stated that there are no exceptional Federal costs since the Government owns the land, does not own or maintain the facilities, nor provides any services to justify increasing fees. In addition, several of this group believe that there is no other better use for the land (referring to a rocky mountaintop in an isolated area).

Response: No comments were received suggesting an alternative fee basis or analyzing the fee proposal for broadcast translators. The comments were not specific about the fee schedule itself. By law and administrative order the Forest Service must charge fees for special uses. A special-use fee is a charge for private, exclusive use of Federal land which does not serve or benefit the public at large and often limits other uses of that land. It is a charge for a privileged use of Federal land. The Federal Land Policy and Management Act of 1976 requires that fair market value be paid for such uses. The elevation afforded by mountaintops relates directly to their value and desirability for electronic uses. This value is demonstrated in the market place.

Current charges for broadcast translators across the Region were reviewed comparing several factors. These included the annual special-use rental fee currently charged to translator permit holders, that fee converted into the annual cost per subscriber, and the annual subscription cost currently charged by each holder.

Translator groups charge their subscriber's fees ranging from $0 to $90 annually. The current annual Forest Service fee for broadcast translators ranges from no charge to $100. This amounts to a total annual cost range per subscriber of about $0.07 to $1.63. Clearly, current Forest Service fees are below fair market value.

The final rule as adopted establish broadcast translator fees at $900. This amounts to an actual annual cost per subscriber ranging from $.05 to $20.00 (with two exceptions at $56.25), and is not unreasonable. The highest rate of $56.25 per year per subscriber is less than individual subscriber rates in the private market or costs of alternative electronic reception services.

Miscellaneous Uses

Proposal: Several uses were identified in the proposal as requiring a $150 charge per unit. These include installations of equipment used without financial gain and solely for the owners private/personal purposes. The Region identifies: (1) "Receive only" equipment such as personal TV and radio antennas and satellite dishes, (2) amateur two-way radio equipment, and (3) resource monitoring facilities within this category.

Comments Received: Eight personal use "receive only" antenna permit holders and two Forest Service Officers suggested that, in consideration of the restricted application and benefits derived, the proposed $150 annual fee is excessive for that use. Three of these holders state the fee will cause them to relinquish their permits.

Thirty four of the comments addressing fee increases for the miscellaneous use category were from individuals who have special-use permits for private personal "receive only" antennas or amateur radio operations. Comments pertaining to amateur radio operations were submitted by both holder and non-holder amateur radio operators (individually, or with group affiliations) and public agencies. The current annual fee charged for most of these uses is $25. The majority of amateur radio respondents felt that in addition to being high, fees for amateur radio operators should be waived. This particular topic is further discussed under Section E below.

Fourteen respondents provided information on the requirements which licensed amateur radio stations must fulfull in terms of emergency and general public service. Some respondents advised the Region of the extent of Federal and state support provided to the amateur radio program and indicated high regard for essential services that amateur radio is required to provide.

Response: In reviewing the comments regarding personal use receiving antennas, the Region recognizes the need to accommodate such uses which cannot for technical reasons be located off National Forest System lands. The Region considered the personal use non-profit orientation and usual limited reception of these installations, and the final rule as adopted establishes a fee of $75 for personal use "receive only" equipment. In establishing this fee, respondents' concerns are adequately provided for.

In response to comments regarding amateur radio, the final rule as adopted establishes the annual fee for qualifying amateur electronic uses at $75. It is the responsibility of each amateur radio applicant and holder to present its qualifications for this consideration to the authorized Forest Service Officer.

Other Comments Received

A. Appraisal/Fair Market Value Assessment

Proposal: Fees would be based on fair market value of the use, developed through market analysis, and annually adjusted by index.

Comments Received: Eleven respondents discussed the differences in proposed fees among the various Forest Service Regions. The Federal Land Policy and Management Act of 1976 (FLPMA) authorizes electronic site use and requires that special-use fees be based on fair market value. All Regions are directed to determine fair market value and to implement fees accordingly. The Forest Service is striving to attain a uniform fee system while recognizing that variations in markets exist between Regions. The Northern Region has coordinated its effort with adjacent Regions to help insure as much uniformity as possible considering these market area differences.

Three respondents objected to the use of the Urban Consumer Price Index (CPI-U) for adjusting fees. However, actual lease information used in the rental study (including two leases involving one respondent) indicates that adjusting by that index is an accepted common practice.

Several respondents pointed out that the IPD-GNP has been adopted by the Forest Service for adjusting linear rights-of-way fees. It was suggested that the IPD-GNP second-quarter index be used in lieu of CPI-U. While either index satisfies the "fair market value" requirement, The Region agrees that for consistency, it is more appropriate to use the IPD-GNP index.

One respondent discussed the "value of the use authorized" concept. The

Secretary of Agriculture's regulations (36 CFR 251.57) require that fees be based on the fair market value of the rights and privileges authorized and this is an established practice. Concurrence with this regulation is accomplished by stratifying market data by specific electronic-use types and determining fees accordingly.

Several respondents suggested that averaging used in the rental study may not have statistical legitimacy. The study selected reasonably comparable rentals from arrays of private lease rentals. In some cases, the average was determined to be a reasonable fee. No statistical legitimacy is implied.

Two respondents questioned the use of renegotiated leases. Renegotiated (reissued) leases constitute the majority of the private electronic site rental market and represent valid transaction data. The majority of electronic uses on National Forest sites involve reissued permits which represent a situation similar to renegotiated leases in the private market.

Three respondents expressed the need to adjust fees for differences between the terms and conditions of typical private leases and Forest Service special-use permits. This was addressed In the market rental study. No significant difference was found.

One respondent stated that value added to the site by the holder was not recognized in the rental study. Value added by the holder would be considered where it was recognized in the market. The value contributed by holder-owned buildings has been recognized by relying on ground lease rentals.

Response: The final rule as adopted reflects use of the IPD–GNP Index rather than the CPI–U Index.

B. Fee Increase

Proposal: The proposed schedule reflects increases in electronic use fees.

Comments Received: The subject of most overall interest, identified in about 145 comments representing all fee groups, was the incremental increase in fees. Although many conceded that some increase was appropriate, respondents generally felt that the proposed rates were high. One utility company and one State-Governmental agency commented that the fee amounts appeared to be reasonable and accurately reflected fair market value.

Response: As indicated previously, fees have been below fair market value. The final rule as adopted will provide for fair market value fees, and provide for phasing-in fee increases.

C. Size/Location/Type of Market Served

Proposal: The proposed fee schedule recognized size and type of market only with cable TV.

Comments Received: Thirty three respondents representing five fee groups including 26 broadcast translator respondents, suggested that fees be adjusted according to the size, location, or type of market served. The particular interest was for reducing fees for installations which serve isolated communities with limited amenities. Some implied that most of these communities have a high ratio of retired persons on fixed incomes.

Response: We recognize that the nature of the market served is a consideration in determining appropriate fees. Population was considered in the market rental study. The rate schedule reflects this factor insofar as it could be established in the market for this Region.

D. Type of Use/Service Provided

Proposal: The proposed fee schedule recognized differences in type of electronic use and services.

Comments Received: Nine respondents from five fee groups suggested that fees be adjusted on the basis of the type of use or service provided. Specifically addressed were the value differences between small and large commercial operations and between TV and radio broadcasting. With the exception of cable TV, the market analysis discloses that markets in the Northern Region have not yet developed to the extent that demonstrable value differences exist based on the size of a user's operation or potential for clientele. Another comment stressed the lower value of a radio station in comparison to a TV station and the need for the fee to reflect this difference.

Three comments were received from Rural Electrification Act (REA) cooperatives requesting fee waivers for REA-financed electric facilities. These uses included common carrier microwave and two-way radio sites which the cooperatives stated were essential to their power and telephone line operations. One respondent cited Pub. L. 98-300 in which Congress amended the Federal Land Policy Management Act of 1976 to exclude REA-financed power and phone lines from fair market value fees.

Response: Private lease data in the rental study indicated no significant difference between radio and TV broadcasting ground rentals.

As to REA facilities, the Forest Service concurs, having recently interpreted the Act to include all REA-financed facilities such as common carrier microwaves, two-way radio sites and related facilities (Forest Service Manual 2728.32, Interim Directive No. 57, July 7, 1987). Fees will not be charged for qualifying REA-financed electronic site facilities.

E. Non-Profit Public Service Organizations

Proposal: The Notice states that authority and procedures for fee reductions or waivers are not affected by the proposed fee schedule.

Comments Received: Responses mentioning fee waivers and reductions were second in number only to those pertaining to the overall increase in fees (Section B). Twenty one respondents requested fee waivers or reductions for their respective interests. Only eight of these are permit holders, including one Federal agency, two REA cooperatives, and three of the four responding amateur radio holders. Eleven non-holders (both individuals and organizations) responded on behalf of amateur operators suggesting a categorical eligibility for either fee waiver or reduction.

Response: Conditions under which fee waivers or reductions may be granted are specified under 36 CFR 251.57(b) and in Title 2700, Forest Service Manual. Fees may be waived when equitable and in the public interest. The equitability requirement is met by achieving a balance between the interests of the general public and local public. The term "public interest" pertains to the whole of the general public of the United States and beyond those living in a particular geographic area.

In this context, public interest is met when an action benefits the general public without imposing an undue burden on any specific group. The criteria also state that the user must be non-profit and the holder must be "engaged in public or semi-public activity to further public health, safety, or welfare." More specifically, the holder must provide "a valuable benefit to the public or to the programs of the Secretary (of Agriculture)."

Secretary of Agriculture's Regulation 36 CFR 251.57(c) provides that "no rental fee will be charged when the holder is the Federal Government." This includes electronic site uses. Fees will not be charged other Federal agencies unless a charge for similar privileges is made to the Forest Service.

F. Shared Space/Secondary Users

Proposal: The Region proposed that fees for secondary and subsequent users be established at 50 percent of the full fee for the kind of use.

Comments Received: A point raised by two-way radio and the common carrier microwave user groups was that the users' investments toward developing a shared site be recognized in setting the fee schedule. As addressed in Section A, the relative values of improved versus unimproved locations was taken into consideration in the market rental study.

One utility company commented that, given a multiplicity of users sharing a site, the Forest Service could collect more than the fair market value of the raw land. The Federal Land Policy Management Act of 1976, and subsequent regulations and policy clearly require that the rental fee be based on the fair market value of the rights and privileges authorized, not simply on the value of the raw land as the respondent suggests.

Another comment was that under the shared space concept the primary user would be serving as a coordinator and fee collector between the secondary users and the Forest Service. One primary user mentioned the additional responsibility and liability of their role. This responsibility and liability would burden the primary user only when provided for in their particular special-use permit. Such responsibility exists only in permits issued specifically as multiple user authorizations pursuant to the new concepts of site associations and site managers. Under older, existing permits, considered single user authorizations, holders remain individually responsible for requirements of their individual permits, including the payment of fees calculated on the shared space concept considering primary and secondary users. The primary user is the owner/controller of the equipment shelter structure. Shelter tenants/occupants are secondary users. Regardless of whether primary users hold multiple user or single user authorizations, they have an advantage of being able to distribute costs proportionately to secondary users.

Response: We recognize those situations where individual holders have formed associations and as such converted from individual permits to multiple user authorizations. We acknowledge the benefits association permits afforded both the Forest Service and users. In recognition of existing electronic site association permits, and to encourage the continued implementation of multiple use authorizations by associations, the final rule as adopted will provide for local modification to the fee schedule. Authorized officers may make adjustments to association fees, subject to the Regional Forester's approval, on a case-by-case basis.

The final rule will also establish that shared space fee differentials (50 percent of the full fee) are not applicable to users within Forest Service buildings. In addition to regularly prescribed fees, authorized officers may also require users to perform or share in the costs of major or unforeseen building or facility maintenance and repair, as provided by section 7, Act of April 24, 1950 (Granger-Thye).

Summary of Final Notice

Review and consideration of the many comments and suggestions received establishes that, while much useful and important information was presented, commentors provided no substantive information or factual evidence demonstrating that our market rental study does not accurately portray fair market value or that the proposed fee schedule is not a correct and appropriate comparison to the market. Accordingly, with certain adjustments in the schedule pertaining to the miscellaneous category, REA financed facilities and shared space situations, the Northern Region, Forest Service, hereby adopts a final electronic site fee schedule and procedures that are intended to keep pace with changing economic conditions and better reflect conditions in the non-Federal market place for electronic communications and related uses, as required by the Federal Land Policy and Management Act of 1976.

The fee schedule is:

A. Northern Region Annual Fee Schedule

1. *Common Carrier Microwave*—$1,500
2. *Industrial Microwave*—$1,000
3. *Passive Reflector*—$500
4. *TV and Radio Broadcast*—$3,000
5. *Cable TV:*
   $2,150—over 60,000 population served
   $1,200—10,000–60,000 population served
   $250—Under 10,000 population served
6. *TV and Radio Broadcast Translators*—$900
7. *Two-Way Radio:*
   Site Only—$500
   Site With Forest Service Building Space—$700
8. *Commercial Communicator*—$600 with one user plus $250/additional two-way radio user
9. *Miscellaneous Electronic Uses*—$75

The miscellaneous fee of $75 is the lowest fee that will be charged and collected for any electronic use, and is not subject to further reduction.

(a) *Amateur Radio Facilities*

These facilities are qualified and licensed by FCC according to the purpose, nature, and degree of emergency public service communications provided.

(b) *Personal/Private "Receive Only" Uses*

These include radio and TV receiving antennas, satellite dishes and other equipment/facilities designed for the reception of electronic signals serving private homes, recreation residences or commercial establishments, which are personally owned and not operated for profit.

(c) *Resource Monitoring Facilities*

These include electronic facilities for gathering, recording, transmitting or receiving resource, atmospheric or other natural resource data or phenomenon. This charge does not apply to wildlife monitoring activities conducted or approved by wildlife management agencies.

The charge shall apply to each monitoring or study site or station installation.

B. Adjustments and Updating

The full annual fee as provided from the schedule and pursuant to Section E below, will be adjusted annually by the annual change (second quarter to second quarter) in the IPD–GNP and updated by new market studies and analysis at 5-year intervals.

C. Fees for Shared Space Users

Where shared space is occupied under single user-type authorizations, primary users (building owner/controller) will be charged the full annual fee for the kind of electronic use of their particular authorization. Secondary and subsequent users in a facility will be charged fees of 50 percent of the full annual fee for the kind of electronic use(s) authorized.

Under multiple user permits, primary users (site managers or associations—except for those established by prospectus-bid processes) will pay the Forest Service the appropriate shared service fee for each of their tenants/users and are free to negotiate a reasonable charge with their tenants.

The shared service adjustment does not apply to holders occupying Forest Service facilities; full fees are charged for these situations.

D. Phase-In of Fee Increases

So that holders may adjust their operations to the fee schedule, that portion of the new fee that exceeds a 100 percent increase will be phased in over a 3-year period beginning with C.Y. 1988 fees.

To facilitate calculation of phased-in fee amounts, IPD–GNP annual adjustments will be deferred until full fees are attained in C.Y.1990.

E. Effective Date

The fee schedule is effective September 8, 1987, and will be reflected in the next billing period.

James C. Overbay,

Regional Forester.

[FR Doc. 87–21183 Filed 9–17–87; 8:45 am]

BILLING CODE 3410–11–M

Forest Resource Inventory Statistics

AGENCY: Forest Service, USDA.

ACTION: Notice of changes in policy and procedure.

SUMMARY: The Forest Service has changed its internal procedures to clarify when final forest resource inventory statistics may be released to the public and in what form. These changes are being issued as amendments to Forest Service Handbook 4809.11—Forest Survey Handbook, part of the Forest Service Directive System. The effect of thse changes is to provide public access to State, unit, and where appropriate, county statistical information in consistent and compatible formats.

DATE: The inventory process is a continuing one and dates for completion of individual State statistical reports cannot be predicted precisely.

ADDRESSES: Data requesters with an interest in forest resource inventory statistics for a particular State should contact the appropriate Forest Inventory and Analysis (FIA) Project Leader listed below for the status of the inventory in that State.

Experiment station	State
1. FIA Project Leader, Intermountain Research Station, 324 25th Street, Ogden, Utah 84401.	Arizona, Colorado, Idaho, Montana, Nevada, New Mexico, Utah, Wyoming, Oklahoma and Texas (west of 100th Meridian).
2. FIA Project Leader, North Central Forest Experiment Station, 1992 Folwell Avenue, St. Paul, Minnesota 55108.	Illinois, Indiana, Iowa, Kansas, Michigan, Minnesota, Missouri, Nebraska, North Dakota, South Dakota, Wisconsin.
3. FIA Project Leader, Northeastern Forest Experiment Station, 370 Reed Road, Broomall, Pennsylvania 19008.	Connecticut, Delaware, Kentucky, Maine, Maryland, Massachusetts, New Hampshire, New York, New Jersey, Ohio, Pennsylvania, Rhode Island, Vermont, West Virginia.
4 FIA Project Leader, Pacific Northwest Forest and Range Experiment Station, P.O. Box 3890, Portland, Oregon 97208.	California, Hawaii, Oregon, Washington.
5. FIA Project Leader, Southeastern Forest Experiment Station, 200 Weaver Boulvard, P.O. Box 2680, Asheville, North Carolina 28802.	Florida, Georgia, north Carolina, South Carolina, Virginia.
6. FIA Project Leader, Southern Forest Experiment Station, Forestry Sciences Laboratory, Box 906, Starkville, Mississippi 39759.	Alabama, Arkansas, Louisiana, Mississippi, Tennessee, Puerto Rico, Oklahoma and Texas (east of the 100th Meridian).
7. FIA Project Leader, Pacific Northwest Forest and Range Experiment Station, 201 East 9th Avenue, Suite 303, Anchorage, Alaska 99501.	Alaska.

FOR FURTHER INFORMATION CONTACT: James T. Bones, Forest Inventory and Analysis, Forest Inventory and Economics Research, U.S. Department of Agriculture, Forest Service, Washington, DC 20090–6090, Area Code 202–382–9343.

SUPPLEMENTARY INFORMATION: Through its Research organization, the Forest Service conducts continuing Statewide inventories of the Nation's forest land resources to ascertain trends in the extent, condition, ownership, quantity, and quality of the forest resources. These statistics and subsequent analyses are released as unit, State, regional, and national resource bulletins and forest resource reports.

The Forest Service has revised its internal procedures to require Forest Service personnel to produce each State statistical report using a standard set of core tables containing like statistics in the same tabular format. This standardization will allow data requesters to compare the same forest resource statistics for adjoining States. Previously, analysts were unable to compare forest resources across state boundaries because data for adjoining States was gathered by different Experiment Stations using different formats and display standards.

Upon completion of a forest resource inventory, an Experiment Station Director must prepare a Statewide statistical report. In the process a Director may choose to prepare and assemble statistical data by unit and county and, upon request, may release ths data before the State report is final.

The new directive seeks to eliminate inconsistent interpretation of when State, unit, and county data are considered final. Under the new policy, unit and county data released to requesters must be considered preliminary until the State statistical report has been transmitted to the editorial services staff for publication. Any unit or county data released after that time is final data.

In addition, in the Eastern United States, the Forest Service will also provide requesters with field records on computer tapes with a uniform format for a nominal fee. This will allow requesters to perform their own statistical analyses for States or geographic regions within two or more States. Requests for nonstandard data or unique statistical summaries and analyses should be sent to the appropriate FIA project leader(s) to ascertain how best to accomplish the work, the time required, and the cost. The Agency plans to expand this service nationwide as technology and resources permit.

Dated: September 11, 1987.

George M. Leonard,

Associate Chief.

[FR Doc. 87–21637 Filed 9–17–87; 8:45 am]

BILLING CODE 3410–11–M

COMMISSION ON CIVIL RIGHTS

Agenda and Notice of Public Meeting of the Kansas Advisory Committee

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a meeting of the Kansas Advisory Committee to the Commission will convene at 9:00 a.m. and adjourn at 4:00 p.m., on September 30, 1987 at the Holiday Inn Downtown, 424 Minnesota Avenue, Kansas City, Kansas. The purpose of the meeting is to develop program plans for fiscal year 1988 and to hold a community forum to obtain information on the status of civil rights and bigotry and violence in the State.

Persons desiring additional information, or planning a presentation to the Committee, should contact Committee Chairperson, Burdett A. Loomis, or Melvin Jenkins, Director of the Central Regional Division, (816) 374–5253, (TDD 816/374–5009). Hearing impaired persons who will attend the meeting and require the services of a sign language interpreter, should contact the Regional Division at least five (5) working days before the scheduled date of the meeting.

The meeting will be conducted pursuant to the provisions of the rules and regulations of the Commission.

Dated at Washington, DC, September 14, 1987.

Susan J. Prado,

Acting Staff Director.

[FR Doc. 87-21657 Filed 9-17-87; 8:45 am]

BILLING CODE 6335-01-M

Agenda and Notice of Public Meeting of the North Carolina Advisory Committee

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a meeting of the North Carolina Advisory Committee to the Commission will convene at 11:00 a.m. and adjourn at 2:30 p.m. on September 30, 1987, at the Greensboro Ramada Inn, 830 West Market Street, Greensboro, NC 27401. The purpose of the meeting is to review the status of project plans on the topic of desegregation and resegregation in public schools and plan activities for FY 1988.

Persons desiring additional information, or planning a presentation to the Committee, should contact Committee Chairperson Dr. Traciel V. Reid or John I. Binkley, Director of the Eastern Regional Division at (202) 523-5264, (TDD 202/376-8117). Hearing impaired persons who will attend the meeting and require the services of a sign language interpreter should contact the Regional Division at least five (5) working days before the scheduled date of the meeting.

The meeting will be conducted pursuant to the provisions of the rules and regulations of the Commission.

Dated at Washington, DC, September 10, 1987.

Susan J. Prado,

Acting Staff Director.

[FR Doc. 87-21658 Filed 9-17-87; 8:45 am]

BILLING CODE 6335-01-M

DEPARTMENT OF COMMERCE

International Trade Administration

[Case No. OEE-2-87]

Order Denying Export Privileges; for the Fortune Enterprise Co.

In the matter of: Fortune Enterprise Company, Room 1, 13/F, Pun Tak Building, 482 Lockhard Road, Wanchai, Hong Kong, Respondent.

The Office of Export Enforcement, International Trade Administration, United States Department of Commerce (Department), pursuant to the provisions of § 387.8 of the Export Administration Regulations (15 CFR Parts 368-399 (1987)) (the Regulations), issued pursuant to the Export Administration Act of 1979, as amended, 50 U.S.C. app. 2401-2420 (1982 and Supp. III 1985) (the Act), has asked the Deputy Assistant Secretary for Export Enforcement to issue an order denying all export privileges to Fortune Enterprise Company of Hong Kong (hereinafter referred to as respondent).

The Department states that, in accordance with Section 387.8 of the Regulations, on April 11, 1985, it issued a letter to the respondent requesting that it answer a series of interrogatories concerning its export-related activities involving U.S.-origin goods and technical data. The interrogatories were served on the respondent between July 31, 1985 and August 5, 1985. To date, the respondent has failed to answer or otherwise respond to the interrogatories. Section 387.8 of the Regulations provides that, if no response is made to the interrogatories within 20 days after receipt, the person or persons to who the interrogatories are directed may be denied export privileges for a period of five years, or until a response to the interrogatories is made or adequate reasons for the failure or refusal to respond are given.

Accordingly, it is hereby ordered:

I. All outstanding individual validated export licenses in which the respondent or any related party appears or participates, in any manner or capacity, are hereby revoked and shall be returned forthwith to the Office of Export Licensing for cancellation. Further, all of the respondent's privileges of participating, in any manner or capacity, in any special licensing procedure, including, but not limited to, distribution licenses, are hereby revoked.

II. For a period of five years from the date of this Order, or until respondent answers the interrogatories or presents adequate reasons for its failure or refusal to respond, the respondent, its successors or assignees, officers partners, representatives, agents, and employees hereby are denied all privileges of participating, directly or indirectly, in any manner or capacity, in any transaction involving commodities or technical data exported or to be exported from the United States, in whole or in part, or that are otherwise subject to the Regulations. Without limiting the generality of the foregoing, participation, either in the United States or abroad, shall include participation, directly or indirectly, in any manner or capacity: (i) As a party or as a representative of a party to a validated export license application, (ii) in preparing or filing any export license application or reexport authorization, or any document to be submitted therewith, (iii) in obtaining or using any validated or general export license or other export control document, (iv) in carrying on negotiations with respect to, or in receiving, ordering, buying, selling delivering, storing, using, or disposing of, in whole or in part, any commodities or technical data exported from the United States, or to be exported, and (v) in financing, forwarding, transporting, or other servicing of such commodities or technical data. Such denial of export privileges shall extend only to those commodities and technical date which are subject to the Act and the Regulations.

III. After notice and opportunity for comment, such denial may be made applicable to any person, firm, corporation, or business organization with which the respondent is now or hereafter may be related by affiliation, ownership, control, position of responsibility, or other connection in the conduct of trade or related services. Those parties now known to be related to the respondent by affiliation in the conduct of trade, and which are accordingly subject to the provisions of this order, are:

Paul Leung, also known as Leung Yiu Hung and Wong Sau Hin, Both with an address at 11/F, Flat B, Blk. 4, Balwin Court, 154-164 Argyle Street, Hong Kong

A.M.P. Industries, Room 2409, Block A, 24/F, Sun Hing Building, 607 Nathan Road, Kowloon, Hong Kong

International Rental Services, Ltd. and Gutsland Holding Company, both with an address at 1/F Mai Lok Building, 322 Ma Tau Wai Road, Kowloon, Hong Kong

IV. No person, firm corporation, partnership or other business organization, whether in the United States or elsewhere, without prior disclosure to and specific authorization from the Office of Export Licensing, shall, with respect to U.S.-origin commodities and technical data, do any of the following acts, directly or indirectly, or carry on negotiations with respect thereto, in any manner or capacity, or behalf of or in any association with the respondent or any related party, or whereby the respondent or any related party may obtain any benefit therefrom or have any interest or participation therein, direclty or indirectly: (i) apply for, obtain, transfer, or use any license, Shipper's Export Declaration, bill of lading, or other export control document relating to any export, reexport,

transshipment, or diversion of any commodity or technical data exported in whole or in part, or to be exported by, to, or for the respondent or any related party denied export privileges; or (ii) order, buy, receive, use, sell, deliverer, store, dispose of, forward, transport, finance, or otherwise service or participate in any export, reexport, transshipment, or diversion of any commodity or technical data exported or to be exported from the United States.

V. Section 387.8(c) of the Regulations states that procedures for the application for issuance of denial orders under Section 387.8(a) "shall conform substantially to that provided for temporary denial orders by § 388.19." 15 CFR 387.8(c). In accordance with the provisions of Section 388.19(e) of the Regulations, the respondent or any related party may, at any time, appeal this order by filing with the Office of the Administrative Law Judges, U.S. Department of Commerce, Room H-6716, 14th Street and Constitution Avenue, NW., Washington, DC 20230, a full written statement in support thereof.

VI. This order is effective immediately.

A copy of this order and of Parts 387 and 388 of the Regulations shall be served upon respondent and upon the named related parties.

Date: September 14, 1987.

Theodore W. Wu,

Deputy Assistant Secretary for Export Enforcement.

[FR Doc. 87-21628 Filed 9-17-87; 8:45 am]

BILLING CODE 3510-25-M

National Oceanic and Atmospheric Administration

[P5G]

Marine Mammals; Application for Permit; Dr. Donald B. Siniff

Notice is hereby given that an Applicant has applied in due form for a Permit to take marine mammals as authorized by the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361 through 1407), and the Regulations Governing the Taking and Importing of Marine Mammals (50 CFR Part 216).

1. *Applicant:* Dr. Donald B. Siniff, Department of Ecology and Behavioral Biology, University of Minnesota, Minneapolis, Minnesota 55455.

2. *Type of Permit:* Scientific Research.

3. *Name of Marine Mammals:* Weddell seal (*Leptonychotes weddelli*), Crabeater seal (*Lobondon carcinophagus*), Leopard seal (*Hydruga leptonyx*), Ross seal (*Ommatophoca rossi*), Elephant seal (*Mirounga leonina*), Antarctic fur seal (*Arctocephalus gazella*).

4. *Location of Type of Take:* The Applicant is requesting authorization to take marine mammals of the above species at McMurdo Sound, Antarctica.

This project specifically requests permission to: (1) Capture, with physical restraint using a canvas bag placed over the head, and tag up to 1200 individual Weddell seals, including 600 pups, 400 adult females, and 200 adult males, with plastic cattle ear tags in both rear flippers; (2) collect toenails from up to 100 subadult animals for age determinations; and to approach and read tag numbers of up to 2000 Weddell seals, not more than 10 times each; (3) conduct weekly censuses of the eastern McMurdo Sound population to count all seals present on the surface of the ice and record tag numbers; (4) sacrifice up to 5 Weddell seals if the promise of unique scientific return exists; salvage and import material from seals of any species found dead or sacrificed by other Antarctic research programs; and (5) tag and release up to 30 animals of the other species listed.

5. *Period of Activity:* October 1 to December 31, 1987. Concurrent with the publication of this notice in the **Federal Register**, the Secretary of Commerce is forwarding copies of this application to the Marine Mammal Commission and the Committee of Scientific Advisors.

Written data or views, or requests for a public hearing on this application should be submitted to the Assistant Administrator for Fisheries, National Marine Fisheries Service, U.S. Department of Commerce, Washington, DC 20235, within 30 days of the publication of this notice. Those individuals requesting a hearing should set forth the specific reasons why a hearing on this particular application would be appropriate. The holding of such hearing is at the discretion of the Assistant Administrator for Fisheries.

All statements and opinions contained in this application are summaries of those of the Applicant and do not necessarily reflect the views of the National Marine Fisheries Service.

Documents submitted in connection with the above application are available for review by interested persons in the following offices:

Office of Protected Resources and Habitat Programs, National Marine Fisheries Service, 1825 Connecticut Avenue NW., Room 805, Washington, DC;

Director, Northeast Region, National Marine Fisheries Service, 14 Elm Street, Federal Building, Gloucester, Massachusetts 01930.

Date: September 14, 1987.

Bill Powell,

Executive Director, National Marine Fisheries Service.

[FR Doc. 87-21666 Filed 9-17-87; 8:45 am]

BILLING CODE 3510-22-M

[P77#24]

Marine Mammals; Withdrawal of Permit Application; NMFS, Northwest and Alaska Fisheries Center

On December 5, 1986, notice was published in the **Federal Register** (51 FR 43959) that a permit application had been received from the Northwest and Alaska Fisheries Center, National Marine Fisheries Service, 7600 Sand Point Way, NE., Seattle, Washington, 98115, for a Permit to take California sea lion (*Zalophus californianus*), Pacific harbor seal (*Phoca vitulina*), northern elephant seal (*Mirounga angustirostris*), and northern sea lion (*Eumetopias jubatus*) for scientific research.

Notice is hereby given that this permit application was withdrawn, and the withdrawal request has been acknowledged and accepted without prejudice.

Documents submitted in connection with the above permit application request are available for review by interested persons in the following offices:

Office of Protected Species and Habitat Conversation, National Marine Fisheries Service, Room 805, 1825 Connecticut Avenue NW., Washington, DC;

Director, Northwest Region, National Marine Fisheries Service, 7600 Sand Point Way, NE., BIN C15700, Seattle, Washington 98115; and

Director, Southwest Region, National Marine Fisheries Service, 300 South Ferry Street, Terminal Island, California 90731-7415

Date: September 14, 1987.

Bill Powell,

Executive Director, National Marine Fisheries Service.

[FR Doc. 87-21667 Filed 19-17-87; 8:45 am]

BILLING CODE 3510-22-M

[P395]

Marine Mammals; Withdrawal of Permit Application; Dr. Suzanne Macy-Marcy and Dr. J. Ward Testa

On July 23, 1987, notice was published in the **Federal Register** (52 FR 27697) that a permit application had been received from Dr. Suzanne Macy-Marcy, 521 Lakeshore Drive, Leesville, Louisiana

71446 and Dr. J. Ward Testa, Institute of Marine Science, University of Alaska, Fairbanks, Alaska 99775–1080, for a Permit to take harbor seals (*Phoca vitulina richardsi*).

Notice is hereby given that this permit application was withdrawn, and the withdrawal request has been acknowledged and accepted without prejudice.

Documents submitted in connection with the above permit application are available for review by interested persons in the following offices:

Office of Protected Resources and Habitat Programs, National Marine Fisheries Service, Room 805, 1825 Connecticut Avenue, NW., Washington, DC;

Director, Alaska Region, National Marine Fisheries Service, 709 West 9th Street, Federal Building, Juneau, Alaska 99802; and

Director, Southeast Region, National Marine Fisheries Service, 9450 Koger Boulevard, St. Petersburg, Florida 33702.

Date: September 14, 1987.

Bill Powell,

Executive Director, National Marine Fisheries Service.

[FR Doc. 87–21665 Filed 9–17–87; 8:45 am]

BILLING CODE 3510-22-M

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Adjustment of Import Limits for Certain Cotton and Man-Made Fiber Textile Products Produced or Manufactured in the People's Republic of China

September 15, 1987.

The Chairman of the Committee for the Implementation of Textile Agreements (CITA), under the authority contained in E.O. 11651 of March 3, 1972, as amended, has issued the directive published below to the Commissioner of Customs to be effective on September 21, 1987. For further information contact Diana Solkoff, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 377–4212. For information on the quota status of these limits, please refer to the Quota Status Reports which are posted on the bulletin boards of each Customs port or call (202) 566–6828. For information on embargoes and quota re-openings, please call (202) 377–3715.

Summary

In the letter published below, the Chairman of the Committee for the Implementation of Textile Agreements directs the Commissioner of Customs to increase the previously established restraint limit for man-made fiber textile products in Category 635, produced or manufactured in the People's Republic of China. As a result, the current limit for Category 635, which has been filled, will reopen.

Background

CITA directives dated December 23, 1986 and February 24, 1987 (51 FR 47041 and 52 FR 6057) established import restraint limits for certain cotton, wool and man-made fiber textile products, including Categories 635 and 360, respectively, produced or manufactured in the People's Republic of China and exported during the twelve-month period which began on January 1, 1987 and extends through December 31, 1987.

Under the terms of the Bilateral Cotton, Wool and Man-Made Fiber Textile Agreement of August 19, 1983, as amended, and at the request of the Government of the People's Republic of China, the limit for Category 635 is being increased by application of swing. The limit for Category 360 is being reduced to account for the swing applied to Category 635.

A description of the textile categories in terms of T.S.U.S.A. numbers was published in the **Federal Register** on December 13, 1982 (47 FR 55709), as amended on April 7, 1983 (48 FR 15175), May 3, 1983 (48 FR 19924), December 14, 1983, (48 FR 55607), December 30, 1983 (48 FR 57584), April 4, 1984 (49 FR 13397), June 28, 1984 (49 FR 26622), July 16, 1984 (49 FR 28754), November 9, 1984 (49 FR 44782), July 14, 1986 (51 FR 25386), July 29, 1986 (51 FR 20768) and in Statistical Headnote 5, Schedule 3 of the Tariff Schedules of the United States Annotated (1987).

Adoption by the United States of the Harmonized Commodity Code (HCC) may result in some changes in the categorization of textile products covered by this notice. Notice of any necessary adjustments to the limits affected by adoption of the HCC will be published in the **Federal Register**.

This letter and the actions taken pursuant to it are not designed to implement all of the provisions of the bilateral agreement, but are designed to assist only in the implementation of certain of its provisions.

James H. Babb,

Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

September 15, 1987.

Commissioner of Customs,

Department of the Treasury, Washington, DC 20229

Dear Mr. Commissioner: This directive amends, but does not cancel the directives of December 23, 1986 and February 24, 1987, concerning import into the United States of certain cotton, wool and man-made fiber textile products, produced or manufactured in the People's Republic of China and exported during the twelve-month period which began on January 1, 1987 and extends through December 31, 1987.

Effective on September 21, 1987, the directives of December 23, 1986 and February 24, 1987 are amended to include the following adjustments to the previously established restraint limits for cotton and man-made fiber textile products in Categories 360 and 635, as provided under the terms of the bilateral agreement of August 19, 1983, as amended[1]:

Category	Adjusted 12-month limit[1]
360.....	4,791,467 numbers.
635.....	488,584 dozen.

[1] The limits have not been adjusted to account for any imports exported after December 31, 1986.

The Committee for the Implementation of Textile Agreement has determined that these actions fall within the foreign affairs exception to the rulemaking provisions of 5 U.S.C. 533(a)(1).

Sincerely,

James H. Babb,

Chairman Committee for the Implementation of textile Agreements.

[FR Doc. 87–21611 Filed 9–17–87; 8:45 am]

BILLING CODE 3510-DR-M

Deduction in Charges of Certain Cotton Textile Products Produced or Manufactured in the Dominican Republic

September 15, 1987.

The Chairman of the Committee for the Implementation of Textile Agreements (CITA), under the authority contained in E.O. 11651 of March 3, 1972, as amended, and the President's February 20, 1986 announcement of a Special Access Program for textile products assembled in participating Caribbean Basin beneficiary countries from fabric formed and cut in the United

[1] The agreement provides, in part, that (1) with the exception of Category 315, any specific limit may be exceeded by not more than 5 percent of its square yard equivalent total, provided that the amount of increase is compensated by an equivalent square yard decrease in one or more other specific limits in that agreement year (2) the specific limits for categories may be increased for carryover or carryforward; and (3) administrative arrangement or adjustments may be made to resolve minor problems arising in the implementation of the agreement.

States, pursuant to the requirements set forth in 51 FR 21208 (June 11, 1986), has issued the directive published below to the Commissioner of Customs to be effective on September 21, 1987. For further information contact Janet Heinzen, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 377–4212.

Summary

In the letter published below, the Chairman of the Committee for the Implementation of Textile Agreements directs the Commissioner of Customs to deduct 2,654 dozen from charges made to the restraint limit established for Category 340 for the period which began on June 1, 1987 and extends through May 31, 1988.

Subsequently, this same amount will be charged to the guaranteed access level established for properly certified textile products in Category 340 which are assembled in the Dominican Republic from fabric formed and cut in the United States and exported from the Dominican Republic during this same period.

Background

On May 21, 1987 a notice was published in the **Federal Register** (52 FR 19190) announcing import restraint limits for certain cotton and man-made fiber textile products, including Category 340, produced or manufactured in the Dominican Republic and exported during the period which began on June 1, 1987 and extends through May 31, 1988.

A further notice was published in the **Federal Register** on May 22, 1987 (52 FR 19375) which announced guaranteed access levels for properly certified cotton and man-made fiber textile products assembled in the Dominican Republic from fabric formed and cut in the United States, including products in Category 340.

During consultations between the Governments of the United States and the Dominican Republic, the United States agreed to deduct charges for shipments qualifying for guaranteed access levels which were made to designated consultation levels. It was further agreed that those goods would be charged to the corresponding guaranteed access levels.

The Government of the Dominican Republic has provided documentation to the U.S. Government establishing that additional products in Category 340 were assembled exclusively from U.S. formed and cut fabric and qualified for entry under the guaranteed access level. These goods were charged to the designated consultation level because of the unavailability of proper documentation (CBI Export Declaration (Form ITA–370P)) required for entry under TSUSA 807.0010.

A description of the textile categories in terms of T.S.U.S.A. numbers was published in the **Federal Register** on December 13, 1982 (47 FR 55709), as amended on April 7, 1983 (48 FR 15175), May 3, 1983 (48 FR 19924), December 14, 1983, (48 FR 55607), December 30, 1983 (48 FR 57584), April 4, 1984 (49 FR 13397), June 28, 1984 (49 FR 26622), July 16, 1984 (49 FR 28754), November 9, 1984 (49 FR 44782), July 14, 1986 (51 FR 25386), July 29, 1986 (51 FR 27068) and in Statistical Headnote 5, Schedule 3 of the Tariff Schedules of the United States Annotated (1987).

James H. Babb,

Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textitle Agreements

September 15, 1987

Commissioner of Customs,

Department of the Treasury, Washington, DC 20229

Dear Mr. Commissioner: To facilitate implementation of the Bilateral Cotton, Wool, Man-Made Fiber, Silk Blend and Other Vegetable Fiber Textile Agreement of December 18, 1986 between the Governments of the United States and the Dominican Republic, I request that, effective on September 21, 1987, you deduct 2,654 dozen from charges made to the import restraint limit established in the directive of May 18, 1987 for cotton textile products in Category 340, produced or manufactured in the Dominican Republic and exported during the period which began on June 1, 1987 and extends through May 31, 1988.

The Committee for the Implementation of Textile Agreements has determined that this action falls within the foreign affairs exception to the rulemaking provisions of 5 U.S.C. 553.

This letter will be published in the **Federal Register**.

Sincerely,

James H. Babb,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 87–21594 Filed 9–17–87; 8:45 am]

BILLING CODE 3510-DR-M

Adjustment of Import Limits for Certain Wool Textile Products Produced or Manufactured in the Hungarian People's Republic

September 15, 1987.

The Chairman of the Committee for the Implementation of Textile Agreements (CITA), under the authority contained in E.O. 11651 of March 3, 1972, as amended, has issued the directive published below to the Commissioner of Customs to be effective on September 21, 1987. For further information contact Diana Solkoff, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 377–4212. For information on the quota status of these limits, please refer to the Quota Status Reports which are posted on the bulletin boards of each Customs port. For information on embargoes and quota re-openings, please call (202) 377–3715.

Summary

In the letter published below, the Chairman of the Committee for the Implementation of Textile Agreements directs the Commissioner of Customs to adjust the current limits for Categories 434, 435, 444 and 445/446 for goods produced or manufactured in Hungary and exported during the periods which began, in the case of Category 434, on November 1, 1986; and, in the case of Categories 435, 444 and 445/446, on January 1, 1987; and extend through December 31, 1987.

Background

On December 22, 1986 and March 5, 1987 notices were published in the **Federal Register** (51 FR 45795 and 52 FR 7296), which announced import restraint limits for wool textile products, produced or manufactured in Hungary and exported during the periods which began, in the case of Category 434, on November 1, 1986; and, in the case of Categories 435, 444 and 445/446, on January 1, 1987; and extend through December 31, 1987. Under the terms of the Bilateral Wool Textile Agreement of February 15 and 25, 1983, as amended, between the Governments of the United States and the Hungarian People's Republic and at the request of the Hungarian People's Republic, the limits for Categories 434, 435 and 444 are being increased, variously, by application of carryover and swing. The limit for Category 445/446 is being reduced to account for the swing applied to Categories 434, 435 and 444.

A description of the textile categories in terms of T.S.U.S.A. numbers was published in the **Federal Register** on December 13, 1982 (47 FR 55709), as amended on April 7, 1983 (48 FR 15175), May 3, 1983 (48 FR 19924), December 14, 1983, (48 FR 55607), December 30, 1983 (48 FR 57584), April 4, 1984 (49 FR 13397), June 28, 1984 (49 FR 26622), July 16, 1984 (49 FR 28754), November 9, 1984 (49 FR 44782), July 14, 1986 (51 FR 25386), July 29, 1986 (51 FR 27068) and in Statistical Headnote 5, Schedule 3 of the Tariff Schedules of the United States Annotated (1987).

Adoption by the United States of the Harmonized Commodity Code (HCC) may result in some changes in the categorization of textile products covered by this notice. Notice of any necessary adjustments to the limits affected by adoption of the HCC will be published in the **Federal Register.**

James H. Babb,

Chairman, Committee for the Implementation of Textile Agreements.

September 15, 1987.

Committee for the Implementation of Textile Agreements

Commissioner of Customs
Department of the Treasury, Washington, DC 20229

Dear Mr. Commissioner: This directive amends, but does not cancel, the directives issued to you on December 16, 1986 and March 5, 1987 by the Chairman, Committee for the Implementation of Textile Agreements, concerning imports into the United States of certain wool textile products, produced or manufactured in the Hungarian People's Republic and exported during the periods which began, in the case of Category 434, on November 1, 1986; and, in the case of Categories 435, 444 and 445/446, on January 1, 1987; and extend through December 31, 1987.

Effective on Sept. 21, 1987, the directives of December 16, 1986 and March 5, 1987 are hereby amended to adjust the previously established limits for wool textile products in the following categories, as provided under the terms of the bilateral agreement of February 15 and 25, 1983, as amended [1]:

Category	Adjusted limit [1]
433	9,713 dozen
435	11,339 dozen
444	5,670 dozen
445/446	40,941 dozen of which not more than 33,969 dozen shall be in Category 445 and not more than 33,969 dozen shall be in Category 446

[1] The limits have not been adjusted to account for any imports exported after October 31, 1986 for Category 434 and December 31, 1987 for Categories 435, 444 and 445/446.

The Committee for the Implementation of Textile Agreements has determined that these actions fall within the foreign affairs exception to the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,

James H. Babb,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 87-21592 Filed 9-17-87; 8:45 am]

BILLING CODE 3510-DR-M

[1] The agreement provides, in part, that: (1) specific limits may be exceeded during the agreement year by designated percentages; (2) specific limits may be adjusted for carryover and carryforward; and (3) administrative arrangements or adjustments may be made to resolve minor problems arising in the implementation of the agreement.

Request for Public Comment on Bilateral Textile Consultations With the Government of Thailand To Review Trade in Category 369-L

September 15, 1987.

The Chairman of the Committee for the Implementation of Textile Agreements (CITA), under the authority contained in E.O. 11651 of March 3, 1972, as amended, has issued the directive published below to the Commissioner of Customs to be effective on September 21, 1987. For further information contact Ross Arnold, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 377-4212. For information on the quota status of this limit, please refer to the Quota Status Reports which are posted on the bulletin boards of each Customs port or call (202) 343-6581. For information on embargoes and quota re-openings, please call (202) 377-3715. For information on categories on which consultations have been requested call (202) 377-3740.

Background

On August 19, 1987, the Government of the United States requested consultations with the Government of Thailand with respect to Category 369-L (cotton luggage). This request was made under the agreement between the Governments of the United States and Thailand of July 27 and August 8, 1983, relating to trade in cotton, wool and man-made fiber textile products which provides for consultations when imports increase to the point where they cause or threaten market disruption.

According to the terms of the bilateral agreement, if no mutually satisfactory solution is reached during consultations, the United States may establish a prorated specific limit for the period which began on August 19, 1987 and extends through December 31, 1987 at a level of 241,390 pounds.

The Government of the United States has decided, pending a mutually satisfactory solution, to control imports in Category 369-L exported during the ninety-day consultation period which began on August 19, 1987 and extends through November 16, 1987 at the prescribed limit of 190,356 pounds.

In the event the limit established for the ninety-day period is exceeded, such excess amounts, if allowed to enter, may be charged to the prorated specific limit specified above.

The United States remains committed to finding a solution concerning this category. Should such a solution be reached in consultations with the Government of Thailand, further notice will be published in the **Federal Register.**

A summary market statement for this category follows this notice.

A description of the textile categories in terms of T.S.U.S.A. numbers was published in the **Federal Register** on December 13, 1982 (47 FR 55709), as amended on April 7, 1983 (48 FR 15175), May 3, 1983 (48 FR 19924), December 14, 1983, (48 FR 55607), December 30, 1983 (48 FR 57584), April 4, 1984 (49 FR 13397), June 28, 1984 (49 FR 26622), July 16, 1984 (49 FR 28754), November 9, 1984 (49 FR 44782), July 14, 1986 (51 FR 25386), July 29, 1986 (51 FR 27068) and in Statistical Headnote 5, Schedule 3 of the *Tariff Schedules of the United States Annotated (1987).*

Adoption by the United States of the Harmonized Commodity Code (HCC) may result in some changes in the categorization of textile products covered by this notice. Notice of any necessary adjustments to the limits affected by adoption of the HCC will be published in the **Federal Register.**

Anyone wishing to comment or provide data or information regarding the treatment of Category 369-L under the agreement with Thailand, or in any other aspect thereof, or to comment on domestic production or availability of textile products included in the category, is invited to submit such comments or information in ten copies to Mr. James H. Babb, Chairman, Committee for the Implementation of Textile Agreements, International Trade Administration, U.S. Department of Commerce, Washington, DC 20230.

Because the exact timing of the consultations is not yet certain, comments should be submitted promptly. Comments or information submitted in response to this notice will be available for public inspection in the Office of Textiles and Apparel, Room 3100, U.S. Department of Commerce, 14th and Constitution Avenue NW., Washington, DC, and may be obtained upon request.

Further comment may be invited regarding particular comments or information received from the public which the Committee for the Implementation of Textile Agreements considers appropriate for further consideration.

The solicitation of comments regarding any aspect of the agreement or the implementation thereof is not a waiver in any respect of the exemption contained in 5 U.S.C. 553(a)(1) relating

to matters which constitute "a foreign affairs function of the United States."

James H. Babb,

Chairman, Committee for the Implementation of Textile Agreements.

Thailand Market Statement—

Category 369 Pt.—Cotton Luggage

August 1987.

Summary and Conclusions

U.S. imports of Category 369 pt. cotton luggage from Thailand were 543,873 pounds for the year ending May 1987, nearly ninety times greater than the 6,117 pounds imported a year earlier. Thailand was the third largest supplier of Category 369 Pt. cotton luggage during the first five months of 1987, accounting for 9 percent of the total imports in this part category. Thailand's imports during the first five months of 1987, reached 533,894 pounds, over a hundred times greater than its January–May 1986 level.

The market for Category 369 pt. cotton luggage is being disrupted by imports. The sharp and substantial increase in low valued imports from Thailand is contributing to this disruption.

Production and Market Share

U.S. production of cotton fabric for luggage has been on the decline since 1983, dropping from 5.8 million pounds in 1983 to 3.7 million pounds in 1986, a 36 percent decline.

During this same period the domestic producers' share of the market for domestically produced and imported cotton luggage nearly halved, dropping from 72 percent in 1983 to 37 percent in 1986.

Imports and Import Penetration

U.S. imports of Category 369 pt. cotton luggage, measured in terms of the cotton fabric content, nearly tripled, increasing from 2.3 million pounds of cotton fabric in 1983 to 6.2 million pounds in 1986. The ratio of imports to domestic production more than quadrupled, increasing from 40 percent in 1983 to 167 percent in 1986.

Duty Paid Landed Values and U.S. Producer Price

Nearly all of Category 369 pt. cotton luggage imports from Thailand entered under TSUSA No. 706.3650. The duty-paid values of these imports are far below the U.S. producers' prices for comparable U.S. produced luggage.

Committee for the Implementation of Textile Agreements

September 15, 1987.

Commissioner of Customs,
Department of the Treasury, Washington, DC 20229.

Dear Mr. Commissioner: Under the terms of Section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854), and the Arrangement Regarding International Trade in Textiles done at Geneva on December 20, 1973, as further extended on July 31, 1986; pursuant to the Bilateral Cotton, Wool and Man-Made Fiber Textile Agreement of July 27 and August 8, 1983 between the Governments of the United States and Thailand; and in accordance with the provisions of Executive Order 11651 of March 3, 1972, as amended, you are directed to prohibit, effective on September 21, 1987, entry into the United States for consumption and withdrawal from warehouse for consumption of cotton textile products in Category 369–L,[1] produced or manufactured in Thailand and exported during the ninety-day period which began on August 19, 1987 and extends through November 16, 1987, in excess of 190,356 pounds.[2]

Textile products in Category 369–L which have been exported to the United States prior to August 19, 1987 shall not be subject to this directive.

Textile products in Category 369–L which have been released from the custody of the U.S. Customs Service under the provisions of 19 U.S.C. 1448(b) or 1484(a)(1)(A) prior to the effective date of this directive shall not be denied entry under this directive.

In carrying out the above directions, the Commissioner of Customs should construe entry into the United States for consumption to include entry for consumption into the Commonwealth of Puerto Rico.

The Committee for the Implementation of Tedxtile Agreements has determined that this action falls within the foreign affairs exception to the rulemaking provisions of 5 U.S.C. 533(a)(1).

Sincerely,

James H. Babb,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 87–21591 Filed 9–17–87; 8:45 am]

BILLING CODE 3510-DR-M

Textile and Apparel Categories; Proposed United States Tariff Schedule In the Harmonized System Nomenclature

September 15, 1987.

FOR FURTHER INFORMATION CONTACT: Kathy Davis, International Agreements and Monitoring Division, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 377–4212.

On March 4, 1987, a notice was published in the **Federal Resgister** (52 FR 6597), as amended, annoucing revisions to the textile category structure for use in the implementation of the textile and apparel import program under the Harmonized System (HS).

Recently a July 1987 edition of the *Proposed United States Tariff Schedule in the Harmonized System Nomenclature* was published by the Office of the United States Trade Representative. (This document is available from the Government Printing Office.)

[1] The limit has not been adjusted to account for any imports exported after August 18, 1987.

[2] In Category 369–L, only TSUSA numbers 706.3210, 706.3650 and 706.4111.

The proposed Tariff Schedule should be amended to reflect the changes indicated below:

(1) The following HS items are in Category 624, not Category 413;

5407.91.05.00	5515.22.10.00
5407.92.10.00	5515.92.10.00
5407.94.10.00	5516.31.10.00
5408.31.10.00	5516.32.10.00
5408.32.10.00	5516.33.10.00
5408.33.10.00	5516.34.10.00
5408.34.10.00	

(2) The following HS items are it Category 611:

5516.11.00.10	5516.12.00.70
5516.11.00.20	5516.12.00.90
5516.11.00.30	5516.13.00.10
5516.11.00.40	5516.13.00.20
5516.11.00.50	5516.13.00.90
5516.11.00.60	5516.14.00.10
5516.11.00.70	5516.14.00.20
5516.11.00.90	5516.14.00.30
5516.12.00.10	5516.14.00.40
5516.12.00.20	5516.14.00.50
5516.12.00.30	5516.14.00.60
5516.12.00.40	5516.14.00.70
5516.12.00.50	5516.14.00.90
5516.12.00.60	

(3) The following HS items are in Category 222;

6002.92.00.00	6002.93.00.60
6002.93.00.20	6002.93.00.80
6002.93.00.40	

James H. Babb,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 87–21593 Filed 9–17–87; 8:45 am]

BILLING CODE 3510-DR-M

DEPARTMENT OF DEFENSE

Agency Information Collection Activities Under OMB Review

ACTION: Public Information Collection Requirement Submitted to OMB for Review.

SUMMARY: The Department of Defense has submitted to OMB for review the following proposal for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35). Each entry contains the following information:

(1) Type of submission.

(2) Title of Information Collection and applicable OMB Control Number and form Number;

Abstract statement of the need for and the uses to be made of the information collected;

(4) Type of Respondent;

(5) An estimate of the number of responses;

(6) An estimate of the total number of hours needed to provide the information;

(7) To whom comments regarding the information collection are to be forwarded; and

(8) The point of contact from whom a copy of the proposed information collection may be obtained.

This information collection is as follows:

(1) Reinstatement;

(2) "1988 Post Election Survey," 0704-0125, Survey forms B & D;

3. The 1988 Post-Election Survey will collect information from 10,000 U.S. citizens not affiliated with the federal government and living overseas and 500 local officials, who desire to participate in DoD's absentee voting survey. This survey is used to obtain absentee voting statistical data from U.S. citizen's residing overseas and local election officials. These potential voters and election officials are requested to voluntarily complete the survey questionnaire form. The form solicits information on procedural and problem areas encountered in the absentee voting process. This information is used by the Federal Voting Program to prepare the report to the President and Congress as required by 42 USC 1973ff.

(4) Individuals;

(5) Current responses of 10,500;

(6) Current burden hours of 1,749;

ADDRESSES: (7) Comments are to be forwarded to Mr. Edward Springer, Office of Management and Budget, Desk Officer, Room 3235, New Executive Office Building, Washington, DC 20503 and Mr. Daniel J. Vitiello, DoD Clearance Officer, WHS/DIOR, 1215 Jefferson Davis Highway Suite 1204, Arlington, Virginia 22202-4302, telephone 202/746-0933.

FOR FURTHER INFORMATION CONTACT: (8) A copy of the information collection proposal may be obtained from Mr. Vitiello, WHS/DIOR, 1215 Jefferson Davis Highway, Suite 1204, Arlington, Virginia 22202-4302, telephone 202/746-0933.

Linda M. Bynum

Alternate OSD Federal Register Liaison Officer, Department of Defense.

September 14, 1987.

[FR Doc. 87-21581 Filed 9-17-87; 8:45 am]

BILLING CODE 3810-01-M

Defense Science Board Task Force on Armor Anti-Armor Competition; Meeting Cancellation

ACTION: Cancellation of Meeting.

SUMMARY: The meeting notice for the Defense Science Board Task Force on Armor Anti-Armor Competition for August 24 and September 17, 1987 as published in the **Federal Register** (Vol. 52, No. 133, Page 26171, Monday, July 13, 1987, FR Doc 87-15844.) has been cancelled.

Linda Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

September 14, 1987.

[FR Doc. 87-21579 Filed 9-17-87; 8:45 am]

BILLING CODE 3810-01-M

Defense Science Board Task Force on Low Observable Technology; Meeting Cancellation

ACTION: Cancellation of Meeting.

SUMMARY: The meeting notice for the Defense Science Board Task Force on Low Observable Technology for October 15, 1987 as published in the **Federal Register** (Vol. 52, No. 121, Page 23711, Wednesday, June 24, 1987, FR Doc 87-14305) has been cancelled. In all other respects the original notice remains unchanged.

Linda Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

September 14, 1987.

[FR Doc. 87-21580 Filed 9-17-87; 8:45]

BILLING CODE 3810-01-M

Office of the Secretary

Defense Intelligence Agency Scientific Advisory Committee; Closed Meeting

AGENCY: Defense Intelligence Agency Scientific Advisory Committee, DOD.

ACTION: Notice of closed meeting.

SUMMARY: Pursuant to the provisions of subsection (d) of section 10 of Pub. L. 92-463, as amended by section 5 of Pub. L. 94-409, notice is hereby given that a closed meeting of a panel of the DIA Scientific Advisory Committee has been scheduled as follows:

DATES: Monday and Tuesday, 5-6 October 1987, 9:00 a.m. to 5:00 p.m. each day.

ADDRESS: The Pentagon, Washington, DC (on 5 October). The DIAC, Bolling AFB, Washington, DC (on 6 October)

FOR FURTHER INFORMATION CONTACT: Lieutenant Colonel John E. Hatlelid, USAF, Executive Secretary, DIA Scientific Advisory Committee, Washington, DC 20340-1328 (202) 373-4930.

SUPPLEMENTARY INFORMATION: The entire meeting is devoted to the discussion of classified information as defined in section 552b(c)(1), Title 5 of the U.S. Code and therefore will be closed to the public. Subject matter will be used in a special study on intelligence support systems.

Patricia H. Means,

OSD Federal Register Liaison Officer, Department of Defense.

September 15, 1987.

[FR Doc. 87-21653 Filed 9-17-87; 8:45 am]

BILLING CODE 3810-01-M

Defense Logistics Agency

Privacy Act of 1974; Revised Record System

AGENCY: Defense Logistics Agency (DLA), Department of Defense (DoD).

ACTION: Notice of a revision of a DLA system of records for public comment.

SUMMARY: The Defense Logistics Agency of the Department of Defense proposes to revise an existing system of records subject to the Privacy Act of 1974.

DATE: The proposed action will be effective without further notice on October 19, 1987 unless comments are received which would result in a contrary determination.

ADDRESS: Send any comments to the System Manager identified in the record system notice.

FOR FURTHER INFORMATION CONTACT: Mr. Dave Henshall, DLA-XAM, Defense Logistics Agency, Cameron Station, Alexandria, VA 22304-6130, Telephone: 202-274-6234, Autovon: 284-6234.

SUPPLEMENTARY INFORMATION: This existing record system was published at 50 FR 22902, May 29, 1985. The revision includes changes to the system identification and name from S153.20 DLA-T, Personnel Security Clearance Status CAPSTONE to S153.20 DLA-I, Personnel Security Information Subsystem of COSACS and modification of the basic text. The Defense Logistics Agency systems of records as prescribed by the Privacy Act of 1974 (5 U.S.C. 552a) have been published in the **Federal Register** as follows:

FR Doc. 85-10237 50 FR 22897, May 29, 1985 (Compilation)

FR Doc. 85-30123 50 FR 51898, December 20, 1985

FR Doc. 86-17259 51 FR 27443, July 31, 1986

FR Doc. 86-19035 51 FR 30104, August 22, 1986

This proposed revision does not require an altered system report as set

forth by 5 U.S.C. 552a(o) of the Privacy Act.

Patricia H. Means,

OSD Federal Register Liaison Officer, Department of Defense.

September 15, 1987.

§ 153.20 DLA-I

SYSTEM NAME:

Personnel Security Information Subsystems of COSACS

SYSTEM LOCATION:

Primary System-Central computer programs and files maintained at the Defense Logistics Agency Administrative Support Center (DASC) which is located at Cameron Station, Alexandia, VA provides a central index for information regarding personnel security clearance and security eligibility of civilian employees and military personnel within the Defense Logistics Agency (DLA). Ready reference on-line acess is furnished to Defense Logistics Agency Primary Level Field Activities (PLFAs), to Principal Staff Elements (PSEs) at Headquarters, DLA and to Department of Defense Management Support Activities (DoDMSAs) supported by DASC, concerning personnel under their jurisdiction.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

All DLA civilian and military personnel who have been found eligible for employment in a sensitive position or eligible for or granted a security clearance or access to information classified in the interests of national security.

CATEGORIES OF RECORDS IN THE SYSTEM:

Computer record on each individual in the Personnel Security Information Subsystem of COSACS (Command Security Automated Control System) Master File. Computer listings are generated from this master, in the form of a Master File Archival Record and Record Activity Clearance Eligibility Listing (RACEL), and identify those DLA personnel who are assigned to or who are eligible to occupy sensitive positions and those DLA personnel who have been either authorized access to classified information or found eligible for such access.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Executive Orders (E.O.) 9397, 10450, 10865, 12333, 12356.

PURPOSE(S):

Provide a computerized, centralized source of security eligibility and clearance information for all DLA security officers and appropriate supervisors. The purpose for soliciting and using the SSAN is for positive identification and retrieval of records.

These records are used by DLA Security Officers at all levels as well as by other appropriate DLA supervisors to determine whether or not DLA civilian employees are eligible for or occupy sensitive positions; whether they or assigned military personnel have been cleared for or granted access to classified information; and the level of such clearance of access, if granted.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Clearance status and other clearance related information of individual DLA employees may be provided to the appropriate officials of other Federal Government agencies and Federal Government contractors when necessary in the course of official business. See also the Blanket Routine Uses set forth at the beginning of the DLA record system notices.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are maintained in a combination of paper and automated files.

RETRIEVABILITY:

Records are contained in the data base and are retrievable by name, social security account number (SSAN), job series, security eligibility, security clearance, organization, and type of investigation.

SAFEGUARDS:

Records, as well as on-line input and computer terminals, are maintained in areas that conform to applicable DLA security policy. Access to and retrieval from computerized files is limited to authorized users and is password protected/restricted.

RETENTION AND DISPOSAL:

New listings are published quarterly and prior microfiche and listings are destroyed as soon as the new lists are verified but in no case beyond 90 days. Magnetic records are purged one year after the individual departs DLA.

SYSTEM MANAGER(S) AND ADDRESS:

Staff Director, Office of Command Security, Attn: DLA-I, Headquarters DLA, Cameron Station, Alexandria, VA 22304-6130, and Command Security Officers of all DLA PLFAs. Refer to the appendix at the end of the DLA notices for the applicable addresses.

NOTIFICATION PROCEDURE:

Written or personal requests for information may be directed to the appropriate System Manager.

RECORDS ACCESS PROCEDURES:

Official mailing addresses of the DLA System Managers are in the DLA address directory of the appendix to the DLA system of records notices. Written requests for information should contain the full name, SSAN, current address and telephone number of the individual. For personal visits, the individual should be able to provide some acceptable identification, such as driver's license or employing office identification card, and give some verbal information that can be verified from his or her file.

DLA users may utilize an Audio Response Unit (ARU) accessed by SSAN to retrieve the individual's security clearance only.

CONTESTING RECORD PROCEDURES:

The agency's rules for access to records, contesting contents, and appealing initial determinations about an individual concerned may be obtained from the System Manager and are set forth in DLA Regulation 5400.21 (32 CFR Part 1286).

RECORD SOURCE CATEGORIES:

Certificates of clearance or personnel security investigation previously completed by the Office of Personnel Management, the Federal Bureau of Investigation, the Defense Investigative Service, investigative units of the Army, Navy and Air Force, and other Federal agencies. Personnel security files maintained on individuals.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

[FR Doc. 87-21654 Filed 9-17-87; 8:45 am]

BILLING CODE 3810-01-M

Corps of Engineers

Intent To Prepare a Draft Environmental Impact Statement (DEIS) on the Joint Military Medical Command's Proposed New Brooke Army Medical Center at Fort Sam Houston, San Antonio, TX

AGENCY: U.S. Army Corps of Engineers, DOD, Fort Worth District.

ACTION: Notice of intent to prepare a draft environmental impact statement.

SUMMARY: 1. The proposed action consists of construction and operation of

a 200 bed (expandable to 450 bed) regional medical teaching hospital with out-patient clinic to replace facilities of the existing Brooke Army Medical Center. The new facilities would be located in the area of Fort Sam Houston bounded by IH–35, Benz-Engleman Road, and the MK&T Railroad. Support facilities associated with the proposed action would include an on-site energy plant, several off-post road improvements, clinical investigation facility, medical research laboratory, medical administrative facility, and use of public electric and sanitation utilities.

2. *Reasonable Alternatives.* Alternatives to be evaluated include: construction and operation of the new facilities, renovation and upgrading of existing facilities, and no action.

3. *Scoping Process.* a. *Public Involvement.* A comprehensive public involvement program will be conducted locally by the Fort Worth District in support of the Joint Military Command and Fort Sam Houston as a means of soliciting public views and disseminating information. Techniques will include formal public meetings, informal public information sessions as necessary, and continuing dialogue with Federal, State, and local agencies, organizations, and the interested public.

b. *Significant Issues.* At present, significant issues to be addressed in depth in the DEIS include size and capacity of the new facilities, impacts on transportation facilities, socio-economic effects on local residents, and effects on public utility resources.

c. *Assignments.* Other than normal coordination, no cooperating agency assignments have been made.

d. *Environmental Review and Consultation Requirements.* The DEIS will be circulated for review and all comments will be incorporated into a final environmental impact statement.

4. Although not currently scheduled, a public scoping meeting is anticipated to be held in November 1987. A public notice announcing the scoping meeting will be mailed to the project mailing list prior to the meeting.

5. The DEIS is expected to be available to the public by March 1988.

ADDRESS: For additional information, contact Mr. Paul Hathorn, Environmental Project Manager, Environmental Resources Branch, U.S. Army Corps of Engineers, Fort Worth District, P.O. Box 17300, Fort Worth, Texas 76102–0300. Telephone (817) 334–2095.

John E. Schaufelberger,

Colonel, Corps of Engineers, District Engineer.

[FR Doc. 87–20976 Filed 9–17–87; 8:45 am]

BILLING CODE 3710-FR-M

DEPARTMENT OF EDUCATION

[CFDA No. 84.193]

Invitation for Applications for New Awards Under the Demonstration Centers for the Retraining of Dislocated Workers Program (Demonstration Centers) for Fiscal Year 1988

Purpose: To provide assistance to establish demonstration centers to retrain dislocated workers in order to demonstrate the applicability of general theories of vocational education to the specific problems of retraining displaced workers.

Deadline for transmittal of applications: November 17, 1987

Deadline for intergovernmental review comments: January 18, 1988

Applications available: September 17, 1987

Available funds anticipated: $310,000

Estimated average size of awards: $310,000

Estimated number of awards: 1

Project period: Up to 24 months

Invitational priority: Under 34 CFR 75.105(c)(1), the Secretary invites applications from community colleges with existing dislocated worker training programs for a project to establish and operate a demonstration center for the retraining of dislocated workers in which there is significant State, local, and/or private sector involvement, commitment, and support and for which materials will be prepared, as appropriate, for dissemination to other dislocated worker training centers. Applications that meet this invitational priority will not receive a competitive or absolute preference over other applications that do not meet this priority.

Criteria for evaluating applications: The Secretary assigns the fifteen points, reserved in 34 CFR 411.30(b), to the selection criterion (h)—Private Sector Involvement—in 34 CFR 411.31(h) for a total of 20 points for that criterion.

Applicable regulations: (a) The regulations in 34 CFR Parts 400 and 411; and (b) the Education Department General Administrative Regulations (EDGAR) in 34 CFR Parts 74, 75, 77, 78, and 79.

Other information: An award will be made through a cooperative agreement that gives the Department a significant role in monitoring the entire course of the project.

For applications or information contact: Richard F. DiCola, National Projects Branch, Division of Innovation and Development, Office of Vocational and Adult Education, U.S. Department of Education, 400 Maryland Avenue SW. (Room 519, Reporters Building), Washington, DC 20202–5516. Telephone (202) 732–2362.

Program authority: 20 U.S.C. 2415.

Dated: September 14, 1987.

Bonnie Guiton,

Assistant Secretary for Vocational and Adult Education.

[FR Doc. 87–21624 Filed 9–17–87; 8:45 am]

BILLING CODE 4000-01-M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket Nos. ER87–630–000 et al.]

Electric Rate and Corporate Regulation Filings; Alabama Power Co. et al.

September 15, 1987.

Take notice that the following filings have been made with the Commission:

1. Alabama Power Company

[Docket No. ER87–630–000]

Take notice that on September 8, 1987, Alabama Power Company tendered for filing a change in rates for transmission services provided to the Tennessee Valley Authority under a Transmission Service Agreement dated August 11, 1980. The proposed change will reduce the return on common equity component of the formula rate incorporated in the Transmission Service Agreement.

Comment date: September 29, 1987, in accordance with Standard Paragraph E at the end of this notice.

2. American Municipal Power-Ohio, Inc. v. Ohio Edison Company

[Docket No. EL87–62–000]

Take notice that on August 27, 1987, American Municipal Power-Ohio, Inc. (AMP-Ohio) tendered for filing, pursuant to Rule 206 of the Rules of Practice and Procedure and Section 206 of the Federal Power Act, a formal Complaint and request for summary judgment against Ohio Edison Company.

AMP-Ohio states that Ohio Edison has presented no reasons whatever for refusing to grant AMP-Ohio's request for

second delivery points for Cuyahoga Falls and Hudson, and because no issue of material fact is thus involved, AMP-Ohio requests that the Commission grant summary judgment of this matter.

Comment date: October 15, 1987, in accordance with Standard Paragraph E at the end of this notice.

3. Cliffs Electric Service Company, Upper Peninsula Power Company, Upper Peninsula Generating Company

[Docket No. ER87-632-000]

Take notice that on September 9, 1987, Upper Peninsula Power Company (Power Co.), Upper Peninsula Generating Company (Generating Co.) and Cliffs Electric Service Company (Service Co.) tendered for filing an amendment, Amendment No. 3, to the 1978 Basic Agreement (FERC Rate Schedule No. 22) that is dated as of March 20, 1987. The principal purpose of this amendment is to revise the basis on which Service Co. and Power Co. will share the dispatching costs associated with the operation of the control center. Power Co. is in the process of completing the development of a new control center in Ishpeming, Michigan. In place of the arrangement pursuant to which Service Co. and Power Co. shared one-half of those costs, the parties have agreed to substitute a new arrangement whereby Power Co. will charge Service Co. a fixed dollar amount for the portion of the costs which the parties have agreed should be allocated to Service Co. The parties do not anticipate that the new basis for compensating Power Co. will result in any significant change in payments which would otherwise have to be made by Service Co. for dispatch and control services.

The parties request that this amendment be made effective on November 1, 1987, the first day of the month by which the parties expect the new Ishpeming Control Center will become operational and further request a waiver of the Commission's notice provision.

Comment date: September 29, 1987; in accordance with Standard Paragraph E at the end of this notice.

4. Connecticut Light and Power Company

[Docket No. ER85-720-004]

Take notice that on September 8, 1987, Connecticut Light and Power Company (CL&P) tendered for filing pursuant to Commission Order issued July 10, 1987, a compliance report and a lump sum payment from Bozrah Light and Power Company (BL&P), a customer, of $95,558.47 on August 18, 1987.

This report contains the following:

Schedule A—Monthly billing determinants and revenues at prior, present, and settlement rates for the period March 30, 1986 through February, 1987, the date at which Bozrah ceased to be a customer of CL&P.

Schedules I through VI—Computation of the monthly refunds, including interest, for the monthly billings for the period March 30, 1986 through July 10, 1987.

Schedules I through VI—Computations and accounting for the phase-in plan deferrals, carrying charges, and amortizations.

Copies of this filing have been served upon BL&P and the Connecticut State Commission.

Comment date: September 29, 1987, in accordance with Standard Paragraph E at the end of this notice.

5. Pacific Power & Light Company, Washington Water Power Company, Puget Sound Power & Light Company, Portland General Electric Company

[Docket No. ER87-631-000]

Take notice that on September 9, 1987, Pacific Power & Light Company (Pacific), an assumed business name of PacifiCorp, tendered for filing, on behalf of itself, Washington Water Power Company (Water Power), Puget Sound Power & Light Company (Puget) and Portland General Electric Company (Portland General), the Agreement for Hourly Coordination of the Projects on the Mid-Columbia River (Agreement) among Pacific, Waster Power, Puget, Portland General and eleven other parties.

The Agreement, except to extend the term to June 30, 1997, restates in substance the same terms and conditions as the July 1, 1977 Agreement, which it supersedes. There are no revenues to any party resulting from this Agreement.

Pacific has submitted Certificates of Concurrence endorsed by Water Power, Puget and Portland General as part of its application in accordance with 18 CFR 35.1. Pacific requests waiver of prior notice and requests an effective date of July 1, 1987.

Copies of the filing were served upon the Washington Utilities and Transportation Commission, the Oregon Public Utilities Commission, and all parties to the Agreement.

Comment date: September 29, 1987, in accordance with Standard Paragraph E at the end of this document.

Standard Paragraph

E. Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Captiol Street NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions or protests should be filed on or before the comment date. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 87-21615 Filed 9-17-87; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. CP87-532-000 et al.]

Natural gas certificate filings; Northwest Pipeline Corp. et al.

Take notice that the following fillings have been made with the Commission:

1. Northwest Pipeline Company

[Docket No. CP87-532-000]

September 11, 1987.

Take notice that on September 9, 1987, Northwest Pipeline Corporation (Northwest), 295 Chipeta Way, Salt Lake City, Utah 84108, filed in Docket No, CP87-532-000, an application pursuant to section 7(c) of the Natural Gas Act and the Federal Energy Regulatory Commission's (Commission) Regulations thereunder for a limited-term certificate of public convenience and necessity authorizing the transportation of natural gas in interstate commerce for the account of Nu-West Industries, Inc. (Nu-West), all as more fully set forth in the application which is on file and open to public inspection.

Northwest proposes to transport up to 13.0 billion Btu of natural gas per day, on an interruptible basis, for the account of Nu-West, for a term of two years pursuant to a transportation agreement dated August 24, 1987, which provides for transportation service under Rate Schedules T-4 and T-5 of Northwest's FERC Gas Tariff Volume 1-A.

It is said that Nu-West, through its agent, IGI Resources Inc., has acquired supplies of natural gas which it would cause to be delivered to existing receipt points on Northwest's transmission system. Northwest proposes to allow Nu-West the flexibility to switch to new suppliers behind any authorized transportation receipt point. Northwest

also states that no new facilities are required to implement the service.

Northwest proposes to transport Nu-West's volumes through its transmission system and redeliver thermally equivalent volumes less transmission fuel, on an interruptible basis, to Intermountain Gas Company, (Intermountain) for Nu-West's account, at an existing delivery point at Soda Springs, in Caribou County, Idaho. Northwest indicates that Intermountain would then deliver the subject gas to Nu-West's plant facilities in Conda, Idaho.

It is asserted that the proposed transportation service would provide Nu-West with access to low-cost gas supplies that would enable it to re-open and operate its fertilizer plant complex formerly owned by Beker Industries Corporation.

Northwest proposes to charge Nu-West for all volumes of gas transported and delivered under the transportation agreement at either the interruptible, incremental on system transportation rate or the interruptible, replacement on-system transportation rate as set forth, respectively, in Northwest's Rate Schedules T-4 and T-5, FERC Gas Tariff, Volume No. 1-A. Northwest indicates that the T-4 transportation rate would apply to volumes transported during any months which are incremental to the corresponding 1984 monthly volumes for the end-users as indicated on Exhibit C of the Transportation Agreement. It is indicated that the T-5 transportation rate would apply to all volumes transported which are not incremental to the corresponding 1984 monthly volumes.

Comment date: September 25, 1987, in accordance with Standard Paragraph F at the end of this notice.

2. Northern Natural Gas Company, Division of Enron Corp.

[Docket No. CP87-523-000]

September 15, 1987.

Take notice that on September 3, 1987, Northern Natural Gas Company, Division of Enron Corp. (Northern), 2223 Dodge Street, Omaha, Nebraska 68102, filed in Docket No. CP87-523-000 a request pursuant to § 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) for authorization to add two new delivery points and the construction and operation of appurtenant facilities to accommodate natural gas deliveries to Minnegasco Inc. (Minnegasco), under the certificate issued in Docket No. CP82-401-000 pursuant to section 7 of the Nautral Gas Act, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Northern Proposes to add two small volume delivery points to accommodate natural gas deliveries to the communities of Forest Ridge and New Market, Minnesota, to be served by Minnegasco. Northern states that the volumes to be delivered to Minnegasco at the proposed delivery points in the fifth year of service would be 32 Mcf of gas on a peak day, with an annual delivery of 4,877 Mcf at the Forest Ridge delivery point and 10 Mcf of gas on a peak day, with an annual delivery of 1,950 Mcf at the New Market delivery point. It is stated that such volumes are within the currently authorized firm entitlement to Minnegasco as authorized by order issued January 3, 1985, in Docket No. CP84-49-000, therefore would have no impact on Northern's peak day and annual deliveries. It is further stated that the required volumes would be served from the firm entitlement designated by Minnegasco for delivery to Prior Lake, Minnesota.

It is stated that Northern would install the necessary tap and metering facilities at an estimated cost of $7,300. It is stated that Minnegasco will be required to make a contribution of $5,380 in aid of construction.

Comment date: October 30, 1987, in accordance with Standard Paragraph G at the end of this notice.

3. Northwest Pipeline Corporation

[Docket No. CP87-521-000]

September 15, 1987.

Take notice that on September 2, 1987, Northwest Pipeline Corporation (Northwest), 295 Chipeta Way, Salt Lake City, Utah 84108, filed in Docket No. CP87-521-000 a request pursuant to Section 157.205 of the Commission's Regulations under the Natural Gas Act (NGA) (18 CFR 157.205) for the authority to modify its Glenns Ferry Meter Station to increase the capacity of the meter station and to reassign gas volumes from its Declo Meter Station to facilitate the sale and delivery of gas to an existing customer Intermountain Gas Company (IGC), for resale, under Northwest's blanket certificate issued in Docket No. CP82-433-000 (20 F.E.R.C. ¶ 62,412), pursuant to section 7(c) of the NGA, all as more fully set forth in the request which is on file with the Commission and open to public inspection.

Northwest proposes to modify its Glenns Ferry Meter Station located in Elmore County, Idaho, by replacing the existing 4-inch displacement meter setting with a 3-inch turbine meter setting and upgrade the related piping to accommodate the increased deliveries of gas requested by IGC. Northwest states that the additional gas volumes will be used by IGC as system supply for resale to an industrial potato processing plant. Northwest further states that IGC has agreed to reimburse Northwest $6,000 for the cost of construction and required filing fee.

Northwest further proposes to provide IGC, pursuant to its ODC-1 Rate Schedule, at the Glenns Ferry Meter Station an additional 1,400 therms of gas per day for a total Maximum Daily Quantity (MDQ) of 7,000 [1] therms of gas per day and reduce deliveries to IGC by 1,400 therms of gas per day at Northwest's Delco Meter Station located in Cassia County, Idaho. Northwest states that there will be no increase in the total MDQ of gas that Northwest is presently authorized to sell to IGC as a result of the subject proposal.

Comment date: October 30, 1987, in accordance with Standard Paragraph G at the end of this notice.

4. Consolidated Gas Transmission Corporation

[Docket No. CP85-110-006]

September 15, 1987.

Take notice that on August 28, 1987, Consolidated Gas Transmission Corporation (Consolidated), 445 West Main Street, Clarksburg, West Virginia 26301, filed in Docket No. CP85-110-006 a petition to amend the order issued June 21, 1985, in Docket No. CP85-110-000, pursuant to section 7(c) of the Natural Gas Act to authorize the exchange of natural gas with Cranberry Pipeline Corporation (Cranberry) at two additional points of delivery, all as more fully set forth in the petition to amend which is on file with the Commission and open to public inspection.

It is stated that by order issued June 21, 1985, Consolidated and Cranberry were authorized to exchange gas pursuant to a March 1, 1983 exchange agreement (Agreement). It is further stated that Consolidated and Cranberry have entered into an amendment to the Agreement to provide for the receipt by Consolidated of gas at two additional existing interconnections between Consolidated and Cranberry. The amendment also increases the contractual delivery pressure limitation and limits daily deliveries at the primary

[1] Northwest is presently authorized to deliver 5,600 therms of gas to IGC at the Glenns Ferry Meter Station and 2,500 therms of gas at the Declo Meter Station.

point of delivery to Consolidated under the Agreement, it is asserted.

It is averred that as a result of operating conditions, pipeline pressures have increased at the primary point of delivery to Consolidated such that Cranberry is unable to deliver to Consolidated the quantities specified under the Agreement. The additional delivery points and the increase in the contractual delivery pressure limitation at the primary point of delivery are necessary in order for Cranberry to deliver to Consolidated the quantities provided for under the Agreement. It is stated that no additional facilities are proposed or required to be constructed in connection with the proposed service.

Comment date: October 6, 1987, in accordance with the first subparagraph of Standard Paragraph F at the end of this notice.

5. National Fuel Gas Supply Corporation

[Docket No. CP87-511-000]

September 15, 1987.

Take notice that on August 26, 1987, National Fuel Gas Supply Corporation (National Fuel), Ten Lafayette Square, Buffalo, New York 14203, filed in Docket No. CP87-511-000 a request pursuant to § 157.205 of the Regulations under the Natural Gas Act for authorization to construct and operate sales tap facilities connecting its pipelines with those of its affiliate, National Fuel Gas Distribution Corporation (Distribution), under the certificate issued in Docket No. CP83-4-000 pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the request with the Commission and open to public inspection.

Tennessee proposes to construct sales tap facilities in the Towns of Vowinckel, Forest County; Hempfield, Mercer County; Clarion, Allegany County; Columbus, Warren County; Sandy Creek, Venango County; Heath, Jefferson County; Conewango, Warren County; and Reynoldsville, Jefferson County, Pennsylvania, in order to serve additional residential customers of Distribution.

National Fuel states that the proposed deliveries will have niminal impact on its peak and annual deliveries. National Fuel further states that it has sufficient capacity to accomplish the proposed deliveries without detriment or disadvantage to any of its other customers.

Comment date: October 30, 1987, in accordance with Standard Paragraph G at the end of this notice.

6. Panhandle Eastern Pipe Line Company

[Docket No. CP87-517-000]

September 15, 1987.

Take notice that on August 31, 1987, Panhandle Eastern Pipe Line Company (Applicant), P.O. Box 1642, Houston, Texas 77251, filed in Docket No. CP87-517-000 a request pursuant to § 157.205 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205) for authorization permitting and approving certain changes in the location of a delivery point, and for abandonment of a delivery point and related services for U.S. Industrial Chemical Company (USI), under the authorization issued in Docket No. CP83-83-000, pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the application which is on file with the Commission and open for public inspection.

Applicant proposes to add a new sales tap (proposed delivery point) including measuring and appurtenant facilities to serve USI, an existing direct industrial customer. Applicant further proposes to reassign 15,000 Mcf per day of natural gas from an existing point of delivery located on the USI plant site to an adjacent site owned by the Applicant and located at Applicant's Tuscola, Illinois compressor station.

It is stated that Applicant would abandon the existing sales tap located at the USI facility and the related services associated with such facilities, as authorized in Docket No. G-2047, to be replaced by the tap, measuring and adjacent facilities identified as the proposed delivery point. It is further stated that the Applicant would abandon a portion of the direct interruptible natural gas service to the USI plant, reducing the volumes to 15,000 Mcf per day from the previously authorized levels of 18,000 Mcf per day in the winter period, and 29,000 Mcf per day during the summer period. Applicant would also abandon the transportation for direct sale of hydrocarbon extraction and shrinkage previously provided at 38,000 Mcf per day to the USI Plant at Tuscola, Illinois, it is stated.

Applicant indicates that the total volumes to be delivered to USI, after the proposed changes become effective, would be 15,000 Mcf per day to be delivered at the proposed delivery point. Applicant asserts that USI has consented in writing to the proposed abandonment. Applicant further contends that the change in the delivery point would have no impact on its peak day or annual deliveries.

Comment date: October 30, 1987, in accordance with Standard Paragraph G at the end of this notice.

7. Southern Natural Gas Company

[Docket No. CP87-526-000]

September 15, 1987.

Take notice that on September 4, 1987, Southern Natural Gas Company (Southern), P.O. Box 2563, Birmingham, Alabama 35202-2563, filed in Docket No. CP87-526-000 a request pursuant to § 157.205 of the Regulations under the Natural Gas Act for permission and approval to abandon certain regulating facilities, and for authorization to change the operation of two existing delivery points by increasing the contract delivery pressure at those points, under the certificate issued in Docket No. CP82-406-000 pursuant to section 7 of the Natural Gas Act all as more fully set forth in the request with the Commission and open to public inspection.

Southern states that it provides natural gas service to Atlanta Gas Light Company (Atlanta) at various delivery points on Atlanta's distribution system including the Jackson Meter Station (Jackson) in Lamar County, Georgia and the Douglasville Meter Station (Douglasville) in Douglas County, Georgia. Southern indicates that in response to a request by Atlanta it proposes to increase the contract delivery pressure at Jackson from a Contract Delivery Pressure of 200 pounds per square inch, guage (psig) to main line pressure not less than 200 psig, and to increase the contract delivery pressure at Douglasville from a Contract Delivery Pressure of 250 psig to main line pressure not less than 250 psig. Southern states that it further proposes the abandonment of obsolete regulators and auxiliary facilities at Jackson and Douglasville to permit the gas to be delivered to these stations at the proposed higher pressures.

Southern states that the abandonment and increase in delivery pressure proposed in its application will not result in any termination of service, and that said changes will not result in a change to the Contract Demand of Atlanta at Jackson or Douglasville. Further, Southern states that it has sufficient capacity to accomplish deliveries at the revised delivery pressures without detriment or disadvantaged to its other customers, and deliveries at the increased delivery pressures will have no significant impact on Southern's peak day and annual deliveries. Additionally, Southern indicates that the proposed

abandonment and change are not prohibited by any existing tariff of Southern.

Comment date: October 30, 1987, in accordance with Standard Paragraph G at the end of this notice.

Standard Paragraphs

F. Any person desiring to be heard or make any protest with reference to said filing should on or before the comment date file with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this filing if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for the applicant to appear or be represented at the hearing.

G. Any person or the Commission's staff may, within 45 days after the issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to § 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefor, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to section 7 of the Natural Gas Act.

Kenneth F. Plumb,

Secretary.

[FR Doc. 87-21616 Filed 9-17-87; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP87-41-004]

Filing To Put Interim Rates Into Effect; Alabama-Tennessee Natural Gas Co.

September 14, 1987.

Take notice that on September 11, 1987, Alabama-Tennessee Natural Gas Company (Alabama-Tennessee) filed an unopposed motion to approve, subject to refund, interim settlement rates in order to avoid the institution of a rate increase scheduled to become effective on September 1, 1987. If approved, the interim rates, which are equal to the non-gas component of the base tariff rates and charges shown on Alabama-Tennessee's Substitute Second Revised Tariff Sheet No. 4, would be effective for the period September 1, 1987 through December 31, 1987. Alabama-Tennessee also requests a waiver of the Commission's § 154.22 notice requirement and a waiver of § 154.67(a) of the Commission's regulations so that the following tariff sheets in First Revised Volume No. 1 of its FERC Gas Tariff may become effective September 1, 1987:

Original Sheet Nos. 1-3
Substitute Second Revised Sheet No. 4
Original Sheet Nos. 5-9
Second Revised Sheet No. 10
First Revised Sheet No. 11
Second Revised Sheet No. 12
Original Sheet Nos. 13-15
Second Revised Sheet No. 16
First Revised Sheet No. 17
Original Sheet Nos. 18-23
First Revised Sheet Nos. 24-25
Original Sheet No. 26
First Revised Sheet No. 27
Original Sheet No. 27A
First Revised Sheet No. 28
Original Sheet Nos. 29-36
First Revised Sheet No. 37
Original Sheet Nos. 38-45
First Revised Sheet Nos. 46-47
Original Sheet No. 47A
Original Sheet Nos. 48-49
First Revised Sheet No. 50
Original Sheet No. 50A
Original Sheet Nos. 51-82
First Revised Sheet No. 83
Original Sheet Nos. 84-88
First Revised Sheet No. 89
Original Sheet No. 90
First Revised Sheet No. 91
Original Sheet Nos. 92-100
Second Revised Sheet No. 101

Alabama-Tennessee states that the active participants in this proceeding, including the Commission Staff, have achieved an overall settlement in principle in this case and have also reached a limited interim settlement for the period September 1, 1987 through December 31, 1987, to permit interim rates to go into effect and thereby forestall an immediate rate increase.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 214 and 211 of the Commission's Rules of Practice and Procedure. All such motions or protests should be filed on or before September 21, 1987. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 87-21617 Filed 9-17-87; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CI87-889-000]

Application of Associated Natural Gas, Inc. for Blanket Certificate of Public Convenience and Necessity With Pregranted Abandonment Authority and for Expedited Consideration; Associated Natural Gas, Inc.

September 15, 1987.

Take notice that on September 8, 1987, Associated Natural Gas, Inc., of 1401 17th Street, Suite 600, P.O. Box 5493, Denver, Colorado 80217 ("Applicant") filed an application for blanket certificate of public convenience and necessity with pregranted abandonment authority pursuant to sections 4 and 7 of the Natural Gas Act and Part 157 of the Commission's Regulations.

Applicant requests authority to (1) make sales in interstate commerce for resale; (2) permit sales to Applicant by others; and (3) permit Applicant to act as agent for others in connection with sales in interstate commerce for resale. Such sales will include natural gas made available pursuant to abandonment authority granted by the Commission in separate proceedings without regard to the NGPA category of such gas. Applicant also requests pregranted

abandonment authority with respect to all such sales.

The certificate and abandonment authority sought herein, if granted, will enable Applicant to expand its activities as a marketer of natural gas. The authority will enable Applicant to purchase Natural Gas Act gas from various producers and resell natural gas in the interstate market and also enable Applicant to act as agent of broker for producers in the sale in interstate commerce for resale of Natural Gas Act gas in the spot market. Applicant also requests that the Commission declare that its jurisdiction over the activities and operations of Applicant is limited to the transactions for which authorization is sought in the Application. A more detailed description of the authority sought by Applicant is contained in its Application which is on file with the Commission and open for public inspection.

Any person desiring to be heard or to make any protest with reference to said Application should, on or before September 29, 1987 file with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC 20426, a motion to intervene or a protest in accordance with the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestant a party to the proceeding. Persons desiring to become parties to the proceeding or to participate as a party in any hearing herein must file motions to intervene in accordance with the Commission's Rules.

Under the procedures herein provided for, unless othewise advised, it will not be necessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 87-27618 Filed 9-17-87; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CI87-750-000]

Application for Permanent Abandoment; FMP Operating Co.

September 15, 1987.

Take notice that on July 8, 1987, as supplemented on September 4, 1987, FMP Operating Company (FMP), P.O. Box 60004, New Orleans, Louisiana 70160-0004, filed an application in Docket No. CI87-750-000 requesting permanent abandonment of sales of gas to United Gas Pipe Line Company (United), from Bastian Bay, Southeast Flank Field, Plaqumines Parish Louisiana.

FMP states that the takes of gas under the terms of the Gas Purchase Contract dated October 17, 1973, have been substantially reduced without payment. FMP therefore requests that its application be considered on an expedited basis under procedures established by Order No. 436, Docket No. RM85-1-000, at 18 CFR 2.77.[1] Deliverability is approximately 2.6 MMcf/day. The gas is NGPA section 104 1973-1974 biennium gas.

FMP states that it currently holds an LTA consisting of blanket limited-term abandonment and blanket limited-term certificate with pregranted abandonment authorization in Docket No. CI87-531-000, 40 FERC ¶ 61,017 (1987). Accordingly FMP may sell gas from Bastian Bay for resale under authority contained in such LTA. In the event FMP's LTA expires on March 31, 1988, as the Commission's Order in Docket No. CI87-531-000 states, FMP states it will seek any required certificate authority needed for future sales for resale in interstate commerce of the Bastian Bay gas.

Since FMP states that it is subject to substantially reduced takes without payment and has requested that its application be considered on an expedited basis, all as more fully described in the application which is on file with the Commission and open to public inspection, any person desiring to be heard or to make any protest with reference to said application should on or before 15 days after the date of publication of this notice in the **Federal Register**, file with the Federal Energy Regulatory Commission, Washington, DC 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party in a proceeding must file a petition to intervene in accordance with the Commission's rules.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for FMP to appear or to be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 87-21619 Filed 9-17-87; 8:45 am]

BILLING CODE 6717-01-M

[1] The United States Court of Appeals for the District of Columbia vacated the Commission's Order No. 436 on June 23, 1987. In vacating Order No. 436, the Court rejected challenges to the Commission's statement of policy in § 2.77 of its Regulations. Section 2.77 states that the Commission will consider on an expedited basis applications for certificate and abandonment authority where the producers assert they are subject to substantially reduced takes without payment.

[Docket No. TC87-8-000]

Change in FERC Gas Tariff; Natural Gas Pipeline Co. of America

September 11, 1987.

Take notice that on September 2, 1987, Natural Gas Pipeline Company of America (Natural) submitted for filing First Revised Sheet No. 139 to be a part of its FERC Gas Tariff, Third Revised Volume No. 1.

Natural filed the tariff sheet to be effective November 1, 1987. The revised tariff sheet changes section 23 of the General Terms and Conditions in Volume No. 1 by revising the method that Natural allocates, to its existing DMQ-1 and G-1 sales customers and purchasers under firm direct sales contracts, the gas it has available during a temporary curtailment on its system. The revised method bases the allocation of gas supply on the average quantity which that Buyer purchased within Daily Quantity Entitlement or Daily Contract Quantity during the seven days prior to the temporary curtailment of deliveries.

Natural states that this filing is required because of the changing nature of the gas industry and the current patterns of purchases by Natural's DMQ-1 customers due to the expansion of the spot market. Daily Quantity Entitlements no longer accurately reflect purchasing behavior of Natural's customers. A change is required to minimize disruption to actual purchases. The proposed revision will more equitably allocate the quantity for sale by Natural should Natural be required to temporarily curtail deliveries to its DMQ-1, G-1 and direct sales customers.

Natural also requested waiver of the Commission's Regulations to the extent necessary to permit the revised tariff sheet to become effective November 1, 1987.

A copy of this filing was mailed to Natural's jurisdictional customers and interested state regulatory agencies.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC 20426, in accordance with §§ 385.214 and 385.211. All such motions or protests must be filed on or before September 18,

1987. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 87-21620 Filed 9-17-87; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TA88-1-39-000]

Rate Change; Pacific Interstate Transmission Co.

September 14, 1987.

Take notice that Pacific Interstate Transmission Company (Pacific Interstate) on September 3, 1987, tendered for filing as part of its FERC Gas Tariff, Original Volume No. 2, the following sheets:

Thirty-Second Revised Sheet No. 4
Fifteenth Revised Sheet No. 4-A
Twenty-Seventh Revised Sheet No. 5
First Revised Sheet No. 6

Pacific Interstate states that these tariff sheets are issued pursuant to Pacific Interstate's Purchased Gas Cost Adjustment (PGCA) Provision and Incremental Pricing Provisons as set forth in sections 16 and 17, respectively, of the General Terms and Conditions of its FERC Gas Tariff, Original Volume No. 2. The proposed effective date of these tendered tariff sheets and the rates thereon is October 1, 1987.

Pacific Interstate also states that the above-tendered tariff sheets reflect a proposed October 1, 1987, Pacific Interstate Rate Schedule S-G-1 commodity rate of 615.46¢ per decatherm, an increase of 200.37¢ per decatherm from the 415.09¢ per decatherm rate effective April 1, 1987, the date of the last S-G-1 commodity rate change, and that such increase reflects a current Gas Cost Adjustment and a change in the Surcharge Adjustment.

Pacific Interstate states that the current Gas Cost Adjustment is based on an annualized gas cost increase of $13,005.00 and that the Surcharge Adjustment is designed to collect, over a six-month period beginning October 1, 1987, an amount of $122,201.44, which is the amount of Pacific Interstate's Unrecovered Purchased Gas Cost Account on June 30, 1987. Furthermore, Pacific Interstate states that there is no incremental pricing surcharge adjustment applicable to this filing, since its only customer, SoCal Gas, has informed Pacific Interstate that it has no surcharge absorption capability.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, Washington, DC 20426, in accordance with §§ 385.214 and 385.211 of the Commission's Rules of Practice and Procedure. All such motions or protests must be filed on or before September 21, 1987. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 87-21621 Filed 9-17-87; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. CI87-663-000 and CI87-679-000]

Application for Permanent Abandonment and Blanket Limited-Term Certificate With Pregranted Abandonment; Sabine Corp.

September 15, 1987.

Take notice that on June 1, 1987, as supplemented on August 21, 1987, Sabine Corporation (Applicant) filed an application in Docket No. CI87-679-000 requesting permanent abandonment of sales of gas to El Paso Natural Gas Company (El Paso). The application also requests in Docket No. CI87-663-000 that Applicant receive a blanket three-year limited-term certificate with pregranted abandonment for sales of the released gas to other purchasers in interstate commerce.

Applicant states expedited relief is sought for the reason that takes of gas under the terms of the Gas Purchase Contract dated March 31, 1964, have been substantially reduced since 1985, and that Applicant has not received any take-or-pay payments as a result of reduced takes. Applicant states that the contract term expired on September 28, 1986. Applicant requests that its application be considered on an expedited basis under procedures established by Order No. 436, Docket No. RM85-1-000, at 18 CFR 2.77.[1]

Deliverability is approximately 14,000 Mcf per month. The gas is NGPA section 104 small producer flowing gas. Sales have been made under Applicant's small producer certificate issued in Docket No. CS66-96.

Since Applicant states that it is subject to substantially reduced takes without payment and has requested that its application be considered on an expedited basis, all as more fully described in the application which is on file with the Commission and open to public inspection, any person desiring to be heard or to make any protest with reference to said application should on or before 15 days after the date of publication of this notice in the **Federal Register**, file with the Federal Energy Regulatory Commission, Washington, DC 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party in any proceeding herein must file a petition to intervene in accordance with the Commission's rules.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or to be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 87-21622 Filed 9-17-87; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP87-140-000]

Tariff Filing; Transco Gas Supply Co.

September 14, 1987.

Take notice that on September 9, 1987 Transco Gas Supply Company (Gasco) tendered for filing First Revised Substitute Sixth Revised Sheet No. 106, Second Revised Substitute Sixth Revised Sheet No. 106 and Substitute Seventh Revised Sheet No. 106 to its FERC Gas Tariff, Original Volume No. 2. The revised tariff sheets provide for a change in the percentage applicable to return and income taxes for Gasco's rate base to 19.41% effective April 1, 1987 and 16.81% effective July 1, 1987. These tariff sheets are being filed to comply

---

[1] The United States Court of Appeals for the District of Columbia vacated the Commission's Order No. 436 on June 23, 1987. In vacating Order No. 436, the Court rejected challenges to the Commission's statement of policy in § 2.77 of its Regulations. Section 2.77 states that the Commission will consider an expedited basis applications for certificate and abandonment authority where the producers assert they are subject to substantially reduced takes without payment.

with Section 1B of Appendix A of Gasco's FERC Gas Tariff which requires that Gasco's rate of return and income tax factor be the same as that of its affiliate, Transcontinental Gas Pipe Line Corporation (Transco). In that regard, on October 6, 1986 Transco revised its return and tax factor in a general rate case filing in Docket No. RP87-7 which became effective after suspension on April 1, 1987. Gasco's First Revised Substitute Sixth Revised Sheet No. 106 reflects Transco's return and tax factor of 19.41% effective April 1, 1987. On August 21, 1987 Transco made a compliance filing in Docket No. FP87-7 in accordance with Ordering Paragraph (B) of the Commission's July 23, 1987 Order. The purpose of the filing was to reflect a change in the federal corporate income tax rate from 46% to 34% effective July 1, 1987. Gasco's Second Revised Substitute Sixth Revised Sheet No. 106 reflects Transco's revised return and tax factor of 16.81% resulting from the reduced federal income tax rate effective July 1, 1987.

In addition, on August 31, 1987 Gasco filed to reflect in its tariff a provision to provide for recovery of annual charges assessed by the Commission to pipelines and other pursuant to Commission Order No. 472 dated May 29, 1987. The proposed effective date of the tariff sheets reflected therein was October 1, 1987. Gasco's Substitute Seventh Revised Sheet No. 106 is being filed to incorporate the return and tax factor of 16.81% with the aforementioned tariff changes filed pursuant to Commission Order No. 472. The proposed effective date of this tariff sheet is October 1, 1987.

Gasco states that copies of the filing have been served upon Transco, and for information purposes, upon each of Transco's customers and interested State Commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions or protests should be filed on or before September 21, 1987. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 87-21623 Filed 9-17-87; 8:45 am]

BILLING CODE 6717-01-M

Office of Hearings and Appeals

Implementation of Special Refund Procedures

AGENCY: Office of Hearings and Appeals, Energy.

ACTION: Notice of Proposed Implementation of Special Refund Procedures and Solicitation of Comments.

SUMMARY: The Office of Hearings and Appeals of the Department of Energy solicits comments concerning the appropriate procedures to be followed in disbursing to adversely affected parties $37,798,318 (plus accrued interest) obtained by the DOE under the terms of a consent order entered into with Exxon Corporation. The funds are being held in escrow following the settlement of claims and disputes arising from an Economic Regulatory Administration audit of Exxon, a major integrated refiner marketing crude oil and refined petroleum products throughout the United States.

DATE AND ADDRESS: Comments must be filed by October 19, 1987, and should be addressed to the Office of Hearings and Appeals, Department of Energy, 1000 Independence Avenue SW., Washington, DC 20585. All comments should conspicuously display a reference to case number KEF-0087.

FOR FURTHER INFORMATION CONTACT: Richard W. Dugan, Associate Director *or* Christopher Ashley, Staff Analyst, Office of Hearings and Appeals, 1000 Independence Avenue SW., Washington, DC 20585, (202) 586-2860 (Dugan), (202) 586-6602 (Ashley).

SUPPLEMENTARY INFORMATION: In accordance with § 205.282(b) of the procedural regulations of the Department of Energy, 10 CFR 205.282(b), notice is hereby given of the issuance of the Proposed Decision and Order set out below. The Proposed Decision and Order tentatively establishes procedures to distribute to eligible claimants $37,798,318, plus accrued interest, obtained by the DOE under the terms of a consent order entered into with Exxon Corporation on October 8, 1986. The funds were paid by Exxon towards the settlement of possible violations of the DOE price and allocation regulations relating to transactions by Exxon involving the production, refining, and marketing of crude oil and petroleum products during the period January 1, 1973 through January 28, 1981 (the consent order period).

The Proposed Decision and Order sets forth the procedures and standards that the DOE has tentatively formulated to distribute the contents of the escrow account funded by Exxon. The DOE has tentatively decided that the Exxon consent order fund will be divided into two pools. Seventy-five percent of the consent order fund will be made available to qualified purchasers of Exxon refined petroleum products who file Applications for Refund. However, Applications for Refund should *not* be filed at this time. Appropriate public notice will be provided prior to the acceptance of claims. The remaining 25 percent will be distributed in accordance with the DOE's Modified Statement of Restitutionary Policy, 51 FR 27889 (August 4, 1986), unde which crude oil overcharge revenues will be divided among the States, the United States Treasury, and eligible purchasers of crude oil and refined petroleum products.

Any member of the public may submit written comments regarding the proposed refund procedures. Commenting parties are requested to provide two copeis of their submissions. Comments should be submitted by October 19, 1987, and should be sent to the address set forth at the beginning of this notice. All comments received in this proceeding will be available for public inspection in the Public Reference Room of the Office of Hearings and Appeals, Room 1E-234, 1000 Independence Avenue SE., Washington, DC between the hours of 1:00 to 5:00 p.m., Monday through Friday, except Federal holidays.

Dated: September 10, 1987.

George B. Breznay,

Director, Office of Hearings and Appeals.

Proposed Decision and Order of the Department of Energy

September 10, 1987.

Name of Firm: Exxon Corporation.

Date of Filing: February 6, 1987.

Case Number: KEF-0087.

February 6, 1987, the Economic Regulatory Administration (ERA) of the Department of Energy (DOE) filed with the Office of Hearings and Appeals (OHA) a Petition for the Implementation of Special Refund Procedures to distribute funds received from Exxon Corporation (Exxon) under the terms of an October 8, 1986 consent order

between the DOE and Exxon. In accordance with the provisions of the procedural regulations at 10 CFR Part 205, Subpart V, the ERA requests in its Petition that the OHA establish special procedures to make refunds in order to remedy the effects of alleged regulatory violations which were settled by the Exxon consent order.

I. Background

Exxon is a major integrated refiner which produced and sold crude oil and a full range of refined petroleum products during the period of federal price controls. The firm was therefore subject to the Mandatory Petroleum Price and Allocation Regulations set forth at 6 CFR Part 150 and 10 CFR Parts 210, 211, and 212. During the course of controls, the ERA conducted an extensive audit of Exxon's operations and alleged in several judicial and administrative proceedings that Exxon had violated certain applicable DOE price and allocation regulations in its sales of crude oil and refined petroleum products. Settlement discussions were held, and on October 8, 1986, the ERA and Exxon finalized a consent order (Consent Order No. REXL00201Z) that resolved issues pertaining to Exxon's crude oil and refined petroleum product operations during the period January 1, 1973 through January 28, 1981 (the consent order period). Pursuant to the consent order, Exxon remitted a total of $37,798,318 (the consent order fund)[1] to the DOE for distribution through Subpart V. These funds are being held in an interest-bearing escrow account maintained at the Department of the Treasury pending a determination regarding their proper distribution.

II. Jurisdiction and Authority

The Subpart V regulations set forth general guidelines which may be used by the OHA in formulating and implementing a plan of distribution of funds received as a result of enforcement proceedings. The DOE policy is to use the Subpart V process to distribute such funds. For a more detailed discussion of Subpart V and the authority of the OHA to fashion procedures to distribute refunds, *see Office of Enforcement,* 9 DOE ¶ 82,508 (1981), and *Office of Enforcement,* 8 DOE ¶ 82,597 (1981).

We have considered the ERA's petition that we implement a Subpart V proceeding with respect to the Exxon consent order fund and have determined that such a proceeding is appropriate. We will grant the ERA's request. This Proposed Decision and Order sets forth the OHA's tentative plan to distribute these funds. Comments are solicited.

III. Proposed Refund Procedures

Because the consent order resolves alleged violations involving both sales of crude oil and refined petroleum products, we propose to divide the consent order fund into two pools. *See Standard Oil Co. (Indiana),* 10 DOE ¶ 85,048 (1982) (*Amoco*). According to the ERA, approximately 75 percent of the aggregate dollar amount of the alleged violations settled by the consent order were attributable to Exxon's sales of refined petroleum products. 51 FR 26737 (July 25, 1986) (Notice of Proposed Consent Order). We therefore propose that 75 percent of the principal contained in the Exxon escrow account, $28,348,738.50, plus interest accrued on that amount, be made available for distribution to purchasers of Exxon refined petroleum products who demonstrate that they were injured as a result of Exxon's alleged regulatory violations. We further propose that the remaining 25 percent, or $9,449,579.50, plus accrued interest, be set aside as a pool of crude oil funds available for disbursement.

A. Crude Oil Caims

We propose that the funds in the crude oil pool be distributed in accordance with the Modified Statement of Restitutionary Policy (MSRP) which was issued by the DOE on July 28, 1986. 51 FR 27899 (August 4, 1986).[2] The MSRP, which was issued as a result of a court-approved Settlement Agreement in *The Department of Energy Stripper Well Litigation,* M.D.L. 378 (D. Kan. July 7, 1986), 3 Fed. Energy Guidelines ¶ 26,563,[3] provides that crude oil overcharge revenues will be divided among the States, the United States Treasury, and eligible purchasers of crude oil and refined products. Under the MSRP, up to 20 percent of these crude oil overcharge funds will be reserved to satisfy valid claims by eligible purchasers of crude oil and refined petroleum products. Remaining funds are to be disbursed to the state and federal governments for indirect restitution also in accordance with the MSRP. In the present case, we have decided to reserve the full 20 percent, or $1,889,915.90 of the crude oil pool, plus an appropriate share of the accrued interest, for direct refunds to purchasers of crude oil and refined petroleum products who prove that they were injured by these alleged crude oil violations.[4]

The process which the OHA will use to evaluate claims based on alleged crude oil violations will be modeled after the process the OHA has used in Subpart V proceedings to evaluate claims based upon alleged overcharges involving refined products. *See Mountain Fuel Supply Co.,* 14 DOE ¶ 85,475 (1986).

As in non-crude oil cases, applicants will be required to document their purchase volumes and to prove that they were injured as a result of the alleged violations (i.e., that they did not pass on alleged overcharges to their customers). We propose to utilize standards for the showing of injury which the OHA has developed in analyzing non-crude oil claims. *See, e.g., Dorchester Gas Corp.,* 14 DOE ¶ 85,240 (1986). These standards include a presumption that end-users and ultimate consumers whose businesses are unrelated to the petroleum industry absorbed the increased costs resulting from a consent order firm's alleged overcharges. *See A. Tarricone, Inc.,* 15 DOE ¶ 85,495 (1987). Reseller and retailer claimants must submit detailed evidence of injury, but may not rely upon the presumptions of injury utilized in refund cases involving refined petroleum products. *Id.* They can, however, use econometric evidence of the type employed n the OHA Report in *In Re: The Department of Energy Stripper Well Exemption Litigation,* 6 Fed. Energy Guidelines ¶ 90,507.

Refunds to eligible claimants will be calculated on the basis of a volumetric refund amount derived by dividing the money available in the crude oil pool ($9,449,579.50) by the total consumption of petroleum products in the United States during the period of price controls (2,020,997,335,000 gallons). The crude oil volumetric refund amount in this proceeding is $0.000004676. In addition,

[1] This amount consists of the principal consent order amount of $36,930,356 plus $867,962 in interest which accrued prior to Exxon's payment to the DOE.

[2] In the Order implementing the MSRP, the OHA solicited comments and objections regarding the proper application of the MSRP to OHA refund proceedings involving alleged crude oil violations. On April 6, 1987, the OHA issued a notice which analyzes the comments that were submitted and explains the procedures which the Office will follow in processing applications filed under the Subpart V regulations for refunds from the crude oil overcharge funds. 52 FR 11737 (April 10, 1987).

[3] The Settlement Agreement resolves a number of matters, including the distribution of funds collected by the Court and the distribution of alleged crude oil violation amounts collected by the DOE in other cases.

[4] Under the Settlement Agreement, firms which apply for a portion of the Stripper Well funds generally must sign a waiver releasing their claims to any crude oil funds to be distributed by the OHA under Subpart V. Settlement Agreement, Part III. Accordingly, those firms will not be eligible for a refund from the Exxon crude oil pool.

after all valid claims are paid, unclaimed funds from the 20 percent claims reserve will be divided equally between federal and state governments. The federal government's share of the unclaimed funds will ultimately be deposited into the general fund of the Treasury of the United States.

We propose that the remaining 80 percent of the crude oil pool, or $7,559,663.60, be disbursed in equal shares to the federal and state governments for indirect restitution. *See Stripper Well Exemption Litigation*, 16 DOE ¶ 85,200 at 88,386 (1987). If this proposal is adopted, we will direct the DOE's Office of the Controller to segregate this amount and distribute $3,779,831.80, plus appropriate interest, to the states and the same amount to the federal government. Refunds to the states will be in proportion to the consumption of petroleum products in each state during the period of price controls. The share (ratio) of the funds in the account which each state will receive if these procedures are adopted is contained in Exhibit H of the Settlement Agreement. These funds will be subject to the same limitations and reporting requirements as all other crude oil monies received by the states under the Settlement Agreement.

B. Refined Produce Claims

With regard to the remainder of the Exxon settlement fund, $28,348,738.50, we propose to implement a two-stage refund process by which firms and individuals who purchased Exxon refined petroleum products during the consent order period may submit Applications for Refund in the initial stage. From our experience with Subpart V proceedings, we expect that potential applicants will fall into the following categories of Exxon refined product purchasers: (i) End-users, i.e., ultimate consumers; (ii) regulated entities, such as public utilities or cooperatives; and (iii) refiners, resellers and retailers.

In order to receive a refund, each claimant will be required to submit a schedule of its monthly purchases of Exxon refined petroleum products during the consent order period. If the product was not purchased directly from Exxon, the claimant must provide a statement setting forth its reasons for maintaining that the produce originated with Exxon.

In addition, a refiner, reseller, or retailer claimant, except those who choose to utilize the injury presumptions set forth below, will be required to make a detailed showing that it was injured by the alleged overcharges. This showing will generally consist of two distinct elements. First, a claimant will be required to show that it maintained "banks" of unrecouped increased product costs (banked costs) in excess of the refund claimed.[5] Second, because a showing of banks alone is not sufficient to establish injury, a claimant must provide evidence that market conditions precluded it from increasing its prices to pass through the additional costs associated with the alleged overcharges. *See National Helium Corp./Atlantic Richfield Co.*, 11 DOE ¶ 85,257 (1984), *aff'd sub nom Atlantic Richfield Co. v. DOE*, 618 F. Supp. 1199 (D. Del. 1985). Such a showing could consist of a demonstration that the firm suffered a competitive disadvantage as a result of its purchases from Exxon. *Id.; see also Panhandle Eastern Pipeline Co./I.V. Cole Petroleum Co.*, 10 DOE ¶ 85,051 at 88,265 (1983).

1. Presumptions for Claims Based Upon Refined Product Purchases

Our experience also indicates that the use of certain presumptions permits claimants to participate in the refund process without incurring inordinate expense, and ensures that refund claims are evaluated in the most efficient manner possible. *See, e.g., Marathon Petroleum Co.*, 14 DOE ¶ 85,269 (1986) (*Marathon*). Presumptions in refund cases are specifically authorized by the applicable DOE procedural regulations at 10 CFR 205.282(e). Accordingly, we propose to adopt the presumptions set forth below.

First, we will adopt a presumption that the alleged overcharges were dispersed equally in all of Exxon's sales of refined petroleum products during the consent order period. In accordance with this presumption, refunds are to be made on a pro-rate or volumetric basis. In the absence of better information, a volumetric refund approach is appropriate because the DOE price regulations generally required a regulated firm to account for increased costs on a firm-wide basis in determining its prices.

Under the volumetric approach, a claimant's allocable share of the refined product pool is equal to the number of gallons purchased times the per gallon refund amount (plus an appropriate share of the interest which has accrued on the Exxon consent order fund).[6] In the present case, the per gallon refund amount is $0.0002419. We derived this figure by dividing the consent order funds in the refined product refund pool ($28,348,738.50) by the approximate number of gallons of covered products other than crude oil which Exxon sold from March 6, 1973, the date that Exxon became subject to the Federal price controls under Special Rule No. 1 (38 FR 6283 (March 8, 1973)), through the date of decontrol for the relevant product (117,185,000,000 gallons).[7]

In addition to the volumetric presumption, we also propose to adopt a number of presumptions regarding injury for claimants in each category listed below.

a. End-users. In accordance with prior Subpart V proceedings, we propose to adopt the presumption that an end-user or ultimate consumer of Exxon petroleum products whose business is unrelated to the petroleum industry was injured by the alleged overcharges settled by the consent order. *See, e.g., Texas Oil and Gas Corp.*, 12 DOE ¶ 85,069 at 88,209 (1984) (*TOGCO*). Unlike regulated firms in the petroleum industry, member so this group generally were not subject to price controls during the consent order period, and were not required to keep records which justified selling price increases by reference to cost increases. Consequently, analysis of the impact of the alleged overcharges on the final prices of goods and services produced by members of this group would be beyond the scope of a special refund proceeding. *Id.* We therefore propose that end-users of Exxon refined petroleum products need only document their purchase volumes from Exxon during the consent order period to make a sufficient showing that they were injured by the alleged overcharges.

b. Regulated firms and cooperatives. We further propose that, in order to receive a full volumetric refund, a claimant whose prices for goods and services are regulated by a governmental agency, e.g., a public utility, or by the terms of a cooperative agreement needs only to submit documentation of purchase volume used by itself or, in the case of a cooperative,

[5] Claimants who have previously relied upon their banked costs in order to be eligible to receive refunds in other special refund proceedings should subtract those refunds from the cumulative banked costs submitted in this proceeding. *See Husky Oil Co./Metro Oil Products, Inc.*, 16 DOE ¶ 85,090 at 88,179 (1987).

[6] Because we realize that the impact on an individual claimant may have been greater than the volumetric amount, we will allow any purchaser to file a refund application based upon a claim that it suffered a disproportionate share of Exxon's alleged overcharges. *See, e.g., Standard Oil Co. (Indiana)/Army and Air Force Exchange Service*, 12 DOE ¶ 85,015 (1984).

[7] As in previous cases, we will establish a minimum refund amount of $15.00. We have found through our experience that the cost of processing claims in which refunds for amounts less than $15.00 are sought outweighs the benefits of restitution in those instances. *See Mobil Oil Corp.*, 13 DOE ¶ 85,339 (1985).

sold to its members.[8] However, a regulated firm or cooperative will also be required to certify that it will pass any refund received through to its customers or member-customers, provide us with a full explanation of how it plans to accomplish the restitution, and certify that it will notify the appropriate regulatory body or membership group of its receipt of the refund. *See Marathon*, 14 DOE at 88,515; *Office of Special Counsel*, 9 DOE ¶ 82,538 at 85,203 (1982). This latter requirement is based upon the presumption that, with respect to a regulated firm, any overcharges would have been routinely passed through to its customers through the operation of automatic adjustment mechanisms. Similarly, any refunds received would be passed through to its customers. With respect to a cooperative, in general, the cooperative agreements which control prices would ensure that the alleged overcharges and, similarly, refunds would be passed through to its member-customers. Accordingly, these firms will not be required to make a detailed demonstration of injury.

c. Refiners, resellers, and retailers seeking refunds of $5,000 or less. We propose to adopt a presumption that a firm who resold Exxon products and requests a small refund was injured by the alleged regulatory violations. Under the small claims presumption, a refiner, reseller, or retailer seeking a refund of $5,000 or less, exclusive of interest (i.e., who purchased less than 20,669,700 gallons of Exxon refined petroleum products during the consent order period), will not be required to submit evidence of injury beyond documentation of the volume of Exxon covered products it purchased during the consent order period. *See TOGCO.* As we have noted in numerous prior proceedings, there may be considerable expense involved in gathering the types of data necessary to support a detailed claim of injury; in some cases, that expense might possibly exceed the expected refund. Consequently, failure to allow simplified application procedures for small claims could therefore deprive injured parties of their opportunity to obtain a refund. Furthermore, use of the small claims presumption is desirable in that it allows the OHA to process the large number of routine refund claims expected in an efficient manner.[9]

d. Medium-range refiner, reseller and retailer claimants. In lieu of making a detailed showing of indury, a refiner, reseller, or retailer claimant whose allocable share exceeds $5,000 may elect to receive as its refund the larger of $5,000 or 40 percent of its allocable share up to $50,000.[10] The use of this presumption reflects our conviction that these larger claimants were likely to have experienced some injury as a result of the alleged overcharges. *See Marathon*, 14 DOE at 88,515. In prior special refund proceedings, we performed detailed economic analysis in order to determine product-specific levels of injury. *See, e.g., Mobil Oil Corp.*, 13 DOE ¶ 85,339 (1985). However, in *Gulf Oil Corp.*, 6 Fed. Energy Guidelines ¶ 90,052, No. HEF-0590 (September 15, 1986) (Proposed Decision), we tentatively determined that it was most efficient to adopt a single general presumptive level of injury of 40 percent for all medium-range claimants, regardless of the refined products they purchased, based upon the results of our analyses in prior proceedings. We therefore propose to adopt the 40 percent presumptive level of injury for all medium-range claimants in this proceeding. Consequently, an applicant in this group will only be required to provide documentation of its purchase volumes of Exxon refined petroluem products during the consent order period in order to be eligible to receive a refund of 40 percent of its total volumetric share.[11]

e. Spot purchasers. We propose to adopt a rebuttable presumption that a refiner, reseller or retailer that made only spot purchases from Exxon did not suffer injury as a result of those purchases. As we have previously stated, spot purchasers tend to have considerable discretion as to the timing and market in which to make purchases and therefore would not have made spot market purchases from a firm at increased prices unless they were able to pass through the full amount of the firm's selling price to their own customers. *See Office of Enforcement*, 8 DOE ¶ 82,597 at 85,396–97 (1981). Accordingly, a spot purchaser claimant must submit specific and detailed evidence to rebut the spot purchaser presumption and to establish the extent to which it was injured as a result of its spot purchases from Exxon.[12]

f. Consignees. A consignee agent is a firm that distributed covered products pursuant to a contractural agreement with a refiner, under which the refiner retained title to the products, specified the price to be paid by the purchaser and paid the consignee a commission based upon the volume of covered products it distributed. 10 CFR 212.31 (definition of "consignee agent"). As in previous decisions, we propose to adopt the rebuttable presumption that consignees of Exxon refined petroleum products were not injured as a result of their arrangement with their refiner/supplier. *See, e.g., Jay Oil Co.*, 16 DOE ¶ 85,147 (1987). However, we also propose that a consignee may rebut this presumption of non-injury by establishing that "[its] sales volumes, and [its] corresponding commission revenues, declined due to the alleged uncompetitiveness of [the consent order firm's] practices. *See Gulf Oil Corp./C.F. Canter Oil Co.*, 13 DOE ¶ 85,388 at 88,962 (1986).

2. Allocation Claims

We also recognize that we may receive claims based upon Exxon's alleged failure to furnish petroleum products that it was obliged to supply to the claimant under the DOE allocation regulations. *See* 10 CFR Part 211. We will evaluate refund applications based upon allocation claims by referring to the standards set forth in Decisions such as *Amoco*, 10 DOE at 88,220, and *Aztex Energy Co.*, 12 DOE ¶ 85,116 (1984). Under those standards an allocation claimant first must demonstrate the existence of a supplier/purchaser relationship with the consent order firm and the likelihood that the consent order

[8] A cooperative's sales to non-members will be treated in the same manner as sales by other resellers. *See Marathon*, 14 DOE at 88, 515.

[9] Claimants who attempt to make a detailed showing of injury in order to support a large refund claim but, instead, provide evidence that leads us to conclude that they passed through all of the alleged overcharges or are eligible for a refund of less than $5,000, will not be entitled to a $5,000 small claims threshold refund. *See Union Texas Petroleum Corp./Arrow Enterprises, Inc.*, 15 DOE ¶ 85,087 (1986); *Quaker State Oil Refining Corp./Campbell Oil Co.*, 15 DOE ¶ 85,089 (1986).

[10] That is, claimants who purchased between 20,669,700 gallons and 516,742,460 gallons of Exxon refined petroleum products during the consent order period (medium-range claimants) may elect to utilize this presumption. Claimants who purchased more than 516,742,460 gallons may elect to limit their claim to $50,000.

[11] A medium-range claimant may elect not to receive a refund based upon this presumption and may instead attempt to show that it is eligible for a refund equal to its full allocable share by making a detailed showing of injury using the general criteria set forth above. However, as with the small claims presumption, the 40 percent presumption will not be available to medium-range claimants who submit a detailed injury showing which leads us to conclude that they are eligible for a refund of less than 40 percent of their volumetric share. *See n.9 infra.*

[12] In prior proceedings we have stated that refunds will be approved for spot purchasers who demonstrate that (i) they made the spot purchases for the purpose of ensuring a supply for their base period customers rather than in anticipation of financial advantage as a result of those purchases, and (ii) they were forced by market conditions to resell the product at a loss that was not subsequently recouped. *See Quaker State Oil Refining Corp./Certified Gasoline Co.*, 14 DOE ¶ 85,465 (1986).

firm failed to furnish petroleum products that it was obliged to supply to the claimant under 10 CFR Part 211. Secondly, it should provide evidence that it had contemporaneously notified the DOE or otherwise sought redress from the alleged allocation violation. Finally, it must establish that it was injured and document the extent of the injury..

C. Distribution of Fund Remaining after First Stage

We propose that any funds that remain after all first stage claims have been decided be distributed in accordance with the provisions of the Petroleum Overcharge Distribution and Restitution Act of 1986 (PODRA), Pub. L. 99–509, Title III. *See* Fed. Energy Guideline ¶ 11,702 et seq. PODRA requires that the Secretary of Energy determine annually the amount of oil overcharge funds that will not be required to refund monies to injured parties in Subpart V proceedings and make those funds available to state governments for use in four energy conservation programs. PODRA, sections 3003 (c) and (d). The Secretary has delegated these responsibilities to the OHA, and any funds in the Exxon consent order escrow account that the OHA determines will not be needed to effect direct restitution to injured Exxon customers will be distributed in accordance with the provisions of PODRA.

IV. Applications for Refund

Applications for Refund should not be filed at this time. Detailed procedures for filing Applications will be provided in a final Decision and Order. Before disposing of any of the funds received as a result of the Exxon consent order, we intend to publicize the distribution process in order to solicit comments on all aspects of the foregoing Proposed Decision and Order from interested parties. All comments must be filed with 30 days of the publication of this / Proposed Decision in the **Federal Register.**

It is Therefore Ordered That: The refund amount remitted to the Department of Energy by Exxon Corporation pursuant to Consent Order No. REXL00201Z, finalized on October 8, 1986, will be distributed in accordance with the foregoing Decision.

[FR Doc. 87–21584 Filed 9–17–87; 8:45 am]
BILLING CODE 6450–01–M

Implementation of Special Refund Procedures

AGENCY: Office of Hearings and Appeals, Energy.

ACTION: Notice of implementation of special refund procedures.

SUMMARY: The Office of Hearings and Appeals of the Department of Energy announces the procedures for disbursement of $250,000 obtained as the result of a Consent Order which the DOE entered into with Bernard A. Krouse d/b/a BAK Ltd.

DATE AND ADDRESS: Applications for Refund of a portion of the BAK Ltd. consent order fund must be received within 90 days of publication of this notice in the Federal Register and should be addressed to BAK Ltd. Consent Order Refund Proceeding, Office of Hearings and Appeals, Department of Energy, 1000 Independence Avenue, SW., Washington, DC 20585. All applications should conspicuously display a reference to case number HEF–0034.

FOR FURTHER INFORMATION CONTACT: Richard W. Dugan, Associate Director, Office of Hearings and Appeals, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 586–2860.

SUPPLEMENTARY INFORMATION: In accordance with § 205.282(c) of the procedural regulations of the Department of Energy, 10 CFR 205.282(c), notice is hereby given of the issuance of the Decision and Order set out below. The Decision relates to a consent order entered into by the DOE and BAK Ltd., which settled possible pricing violations in the firm's sales of No. 2 heating oil to customers during the November 1, 1973 through July 31, 1974 audit period.

A Proposed Decision and Order tentatively establishing refund procedures and soliciting comments from the public concerning the distribution of the BAK Ltd. consent order funds was issued on April 21, 1987. 52 FR 15374 (April 28, 1987).

As the Decision and Order published with this Notice indicates, Applications for Refund may now be filed by customers who purchased No. 2 heating oil from BAK Ltd. during the audit period. Applications will be accepted provided they are received no later than 90 days after publication of the Decision and Order in the **Federal Register.** The specific information required in an Application for Refund is set forth in the Decision and Order.

Dated: September 10, 1987.

George B. Breznay,

Director, Office of Hearings and Appeals.

Decision and Order of the Department of Energy

September 10, 1987.

Name of Case: Bernard A. Krouse d/b/a BAK LTD., Krouse Fuel Company, Allan Fuel Company, Kealy Fuel Company, Walter T. Hoff & Son.

Date of Filing: October 13, 1983.

Case Number: HEF–0034.

Under the procedural regulations of the Department of Energy (DOE), the Economic Regulatory Administration (ERA) of the DOE may request the Office of Hearings and Appeals (OHA) to formulate and implement special procedures to make refunds in order to remedy the effects of alleged violations of the DOE regulations. *See* 10 CFR Part 205, Subpart V. The ERA filed such a petition on October 13, 1983, requesting that OHA implement a special refund proceeding to distribute the funds received pursuant to a Consent Order entered into by the DOE and BAK LTD. et al. (BAK).[1]

I. Background

BAK is a "reseller-retailer" of No. 2 heating oil as that term was defined in 10 CFR 212.31 and 6 CFR 150.352, and is located in Narberth, Pennsylvania. An audit of BAK's business records by the Federal Energy Administration (FEA), a predecessor of the DOE, revealed possible pricing violations with respect to the firm's sales of No. 2 heating oil during the period November 1, 1973 through July 31, 1974 (the audit period). In a Notice of Probable Violation (NOPV) issued to BAK on July 27, 1977, the FEA tentatively concluded that, during the audit period, BAK overcharged its customers in sales of No. 2 heating oil by $497,948. In order to settle all claims and disputes between BAK and the DOE regarding the firm's compliance with the price regulations in sales of No. 2 heating oil during the nine-month audit period, BAK and the DOE entered into a Consent Order on August 16, 1979, in which BAK agreed to remit $250,000 to the DOE. This sum is currently being held in an interest-bearing escrow account maintained by the Department of the Treasury pending distribution by the DOE.

On April 21, 1987, we issued a Proposed Decision and Order in which

[1] The Consent Order was entered into with Bernard A. Krouse d/b/a/ BAK LTD. and the following related firms: Krouse Fuel Company, Allan Fuel Company, Kealy Fuel Company, and Walter T. Hoff & Son.

we tentatively determined that it was appropriate to establish a special refund proceeding with respect to the BAK consent order fund. In that Proposed Decision, we tentatively set forth procedures to distribute refunds to parties injured by BAK's alleged pricing violations in sales of No. 2 heating oil during the consent order period. (In the present case, the consent order period is coterminous with the audit period; November 1, 1973 through July 31, 1974.) Specifically, we proposed to disburse funds in the first stage of the proceeding to claimants who could demonstrate that they were adversely affected by BAK's alleged overcharges during the audit period. We suggested that these injured parties were most likely a group of BAK customers identified in the NOPV issued to BAK on July 27, 1977, but indicated that we would consider claims from any individual or firm that could show that it purchased No. 2 heating oil from BAK during the consent order period. We also stated that the money remaining in the BAK escrow account after payment of refunds to eligible claimants in the first stage would be distributed in accordance with the provisions of the Petroleum Overcharge Distribution and Restitution Act of 1986, Pub. L. 99-509, Title III.

The Proposed Decision was published in the **Federal Register** on April 28, 1987 (52 FR 15374), and comments on the proposed refund mechanism were due to be submitted within 30 days of publication. No comments were received. Therefore, we will adopt the first-stage procedures as proposed. The purpose of this Decision and Order is to establish procedures to be used for filing and processing claims in the first stage of the BAK refund proceeding. This Decision sets forth the information that a purchaser of BAK No. 2 heating oil should submit in order to establish eligibility for a portion of the consent order funds. As we stated in the Proposed Decision, once individual refund claims are evaluated, residual funds shall be distributed in accordance with the Petroleum Overcharge Distribution and Restitution Act of 1986.

II. Jurisdiction

The Subpart V regulations set forth general guidelines by which OHA may formulate and implement a plan of distribution for funds received as a result of enforcement proceedings. It is the DOE policy to use the Subpart V process to distribute such funds. For a detailed discussion of Subpart V and the authority of OHA to fashion procedures to distribute refunds obtained as part of settlement agreements, *see Office of Enforcement*, 9 DOE ¶ 82,553 (1982); *Office of Enforcement*, 9 DOE ¶ 82,508 (1981). As we stated in the Proposed Decision, we have determined that a Subpart V proceeding is an appropriate method for distributing the BAK consent order fund. Therefore, we will grant the ERA's petition and assume jurisdiction over the funds received pursuant to the BAK consent order.

III. Refund Procedures

A. Eligible Claimants

In the first stage, refund monies will be distributed to those parties which were directly injured in transactions with BAK during the consent order period. As discussed in the Proposed Decision, we believe that the BAK customers who were adversely affected by the alleged overcharges are most likely those identified in the exhibits to the BAK NOPV (and in the Appendix to this Decision and Order), as well as residential customers referred to as a class in the NOPV but not specifically identified. These parties may file for refunds in this proceeding. However, we will also accept claims from parties which are able to show that they purchased BAK No. 2 heating oil during the consent order period, even if they were not specifically identified by the BAK NOPV or members of the residential class.

As in previous Subpart V Decisions, we find that those customers who were ultimate consumers of BAK No. 2 heating oil absorbed BAK's alleged overcharges. This presumption was outlined in the Proposed Decision and shall be adopted. These parties will only be required to document their claimed purchase volumes in order to receive a refund. In contrast, as outlined in the Proposed Decision, firms who resold BAK's No. 2 heating oil will be required to demonstrate that they did not pass on cost increases implemented by BAK to their own customers. *See, e.g., Office of Enforcement*, 8 DOE ¶ 82,597 (1981). This can be done by showing that during the period covered by the BAK consent order they would have kept their No. 2 heating oil prices at the same level had the alleged overcharges not occurred. While there are a variety of means by which a claimant could make this showing, a reseller (including a refiner, retailer, or wholesaler) should generally demonstrate that at the time it purchased BAK No. 2 heating oil, market conditions would not permit it to increase its prices to pass through the additional costs associated with the alleged overcharges. In addition, the reseller must show that it had a "bank" of unrecovered costs in order to demonstrate that it did not subsequently recover these costs by increasing its prices. The maintenance of a bank does not, however, automatically establish injury. *See Tenneco Oil Co.*, 10 DOE ¶ 85,014 (1982).

In the Proposed Decision, we stated that resellers which made spot purchases from BAK should be presumed to have suffered no injury and therefore should be ineligible to receive a refund. As we have received no adverse comments on this proposal, we shall adopt it as a rebuttable presumption. We will however, consider evidence from a spot purchaser which rebuts the spot purchaser presumption and establishes the extent to which it was injured by the spot purchase(s). *See Office of Special Counsel*, 10 DOE ¶ 85,048 at 88,200 (1982).

In the Proposed Decision, we noted that a detailed demonstration of injury requirement may be too complicated and burdensome for resellers which purchased relatively small quantities of No. 2 heating oil from BAK. We proposed to adopt a small claims presumption which would relieve any reseller claimant seeking a refund of $5,000 or less from the necessity of making a detailed demonstration of injury. As we have received no adverse comments regarding this proposal, we shall adopt it for all reseller claimants seeking refunds below the $5,000 threshold with the exception of spot purchasers, who must demonstrate injury before being eligible to receive any refund in this proceeding.

As we indicated in the Proposed Decision, we will establish a minimum amount of $15 for refund claims. We have found that the cost of processing claims in which refunds are sought for amounts less than $15 outweight the benefits of restitution in those situations. *See, e.g., Urban Oil Co.*, 9 DOE ¶ 82,541 at 82,225 (1982). *See also* 10 CFR 205.286(b).

B. Calculation of Refund Amounts

As indicated in the Proposed Decision, the FEA audit which gave rise to the BAK NOPV identified those BAK customers allegedly overcharged during the consent order period. Ten BAK customers who were identified by name account for 87.94 percent of the alleged overcharges, while the remaining 12.06 percent of the alleged BAK overcharges were attributed to BAK sales to its "Retail/Residential Class" of purchaser. With respect to the 10 identified customers, we have determined that the use of the audit results to establish maximum potential refunds on a firm-specific basis is more likely than any other method to relate probable injury to

refund amount. We shall therefore base the identified customers' maximum potential refund on the amount each of these firms was allegedly overcharged as determined by the FEA audit. Each firm's maximum refund is approximately 50.2 percent of the alleged BAK overcharges attributable to transactions with that individual party. The 50.2 percent factor takes into account the fact that the $250,000 BAK settlement payment represents 50.2 percent of the BAK alleged overcharge amount ($497,948). The identified firms and their potential refunds (exclusive of interest) are listed in the Appendix to this Decision and Order.

We shall use a volumetric methodology to distribute that portion of the settlement fund attributable to those parties belonging to BAK's residential class of purchaser. The volumetric method presumes that the alleged overcharges were spread equally over all gallons of product marketed by the consent order firm. In the absence of better information, such as audit records, this assumption is sound because the DOE price regulations generally required a regulated firm to account for increased costs on a firm-wide basis in determining its prices. Therefore, in calculating a refund for an eligible residential claimant, we shall multiply the number of gallons of BAK product purchased by the claimant during the consent order period by a volumetric refund factor derived by dividing $30,144.21 (that portion of the BAK settlement fund attributable to BAK's sales to its residential class of purchaser) by 3,069,393 (BAK's total volume of sales of No. 2 heating oil to residential customers during the consent order period.) This results in a volumetric factor of $0.009820 per gallon. This procedure is consistent with the methodology outlined in the Proposed Decision.

C. Application for Refund Procedures

We have concluded that applications for refunds should now be accepted from parties who purchased BAK No. 2 heating oil during the consent order period and believe they have been injured by BAK's pricing practices. Applications must be postmarked within 90 days after publication of this Decision and Order in the Federal Register. *See* 10 CFR 205.286. An application must be in writing, signed by the applicant, and specify that it pertains to the BAK Ltd. Consent Order Fund, Case No. HEF-0034.

All applications for refund must be filed in duplicate. A copy of each application will be available for public inspection in the Public Reference Room of the Office of Hearings and Appeals, Room 1E-234, 1000 Independence Avenue, SW., Washington, DC. Any applicant who believes that its application contains confidential information must so indicate on the first page of its application and submit two additional copies of its application from which the information which the applicant claims is confidential has been deleted, together with a statement specifying why any such information is alleged to be privileged or confidential. Each application must indicate whether the applicant or any person acting on its instructions has filed or intends to file any other application or claim of whatever nature regarding the matters at issue in the underlying BAK enforcement proceeding. Each application must also include the following statement: "I swear (or affirm) that the information submitted is true and accurate to the best of my knowledge and belief." *See* 10 CFR 205.283(c); 18 U.S.C. 1001. In addition, the applicant should furnish us with the name, title, and telephone number of a person who may be contacted by the OHA for additional information concerning the application. All applications should be sent to: BAK Ltd. Consent Order Refund Proceeding, Office of Hearings and Appeals, Department of Energy, Washington, DC 20585. All applications for refund received within the time limit specified will be processed pursuant to 10 CFR 205.284 and the procedures set forth in this Decision and Order.

In order to assist applicants in establishing eligibility for a portion of the consent order funds, the following subjects should be covered in each application:

A. Each applicant should certify that it purchased No. 2 heating oil from BAK Ltd. during the consent order period and list its purchase volumes for each month of that period (November 1, 1973–July 31, 1974).[2]

B. Each applicant should specify how it used the BAK No. 2 heating oil—i.e., whether it was a reseller, or ultimate consumer.

C. If the applicant is a reseller who wishes to claim a refund in excess of $5,000, it should also

(i) State whether it maintained banks of unrecouped product cost increases from November 1, 1973 through June 30, 1976 and furnish OHA with quarterly bank calculations.

(ii) State whether it or any of its affiliates have filed any other applications for refund in which they have referred to their banks to demonstrate injury.

(iii) Submit evidence to establish that it did not pass on the alleged injury to its customers. For example, a firm may submit market surveys to show that price increases to recover alleged overcharges were infeasible.

D. The applicant should report whether it is or has been involved as a party in any DOE or private section 210 enforcement actions. If these actions have terminated, the applicant should furnish a copy of any final order issued in the matter. If the action is ongoing, the applicant should briefly describe the action and its current status. Of course, the applicant is under a continuing obligation to keep the OHA informed of any change in status while its application for refund is pending. *See* 10 CFR 205.9(d).

It Is Therefore Ordered That:

(1) Applications for refunds from the funds remitted to the Department of Energy by BAK Ltd. pursuant to the Consent Order executed on August 16, 1979 may now be filed.

(2) All applications must be filed no later than 90 days after publication of this Decision and Order in the **Federal Register**.

George B. Breznay,

Director, Office of Hearings and Appeals.

Date: September 10, 1987.

Appendix

Name and address	Potential refund
Acme Fuel *	$61
Amoco Oil Co., 200 East Randolph Dr., P.O. Box 87703, Chicago, IL 60680-0703	32,347
Commonwealth of Virginia, State Treasurer's Office, P.O. Box 6H, Richomnd, VA 23215	139,768
Delany Oil Co.*	11,790
Marchese Interstate Trucking, 500 N. Egg Handley Rd., Mammonton, NJ	10,371
Portland Oil Co., 1601 W. Cumberland, Philadelphia, PA	1,377
Solcar, Inc., 310 Rt. 206 South, Somerville, NJ 08876	18,222
Supreme Petroleum, P.O. Box 756, Somerville, NJ 08876	5,009
Thompson *	732
Vitale *	179
Retail/Residential Class	#$30,144
Total	$250,000

*No address availabe.
#$0.009820 per gallon.

[2] Although refunds to the identified applicants listed in the Appendix will not be based on their purchase volumes, this information is necessary to establish eligibility. If it would be excessively difficult for any of these applicants to retrieve this information, the firm may fulfill this requirement by certifying that it purchased No. 2 heating oil from BAK during the consent order period. *See F.O. Fletcher, Inc./Bestfire Oil Co.*, 14 DOE ¶85,281 (1986). A certification will not be sufficient, however, if the applicant is a reseller who requests a refund in excess of $5,000.

[FR Doc. 87-21585 Filed 9-17-87; 8:45 am]

BILLING CODE 6450-01-M

ENVIRONMENTAL PROTECTION AGENCY

[ER-FRL-3263-7]

Environmental Impact Statements; Availability

Responsible Agency

Office of Federal Activities, General Information (202) 382-5073 or (202) 383-5075.

Availability of Environmental Impact Statements Filed September 9, 1987 Through September 11, 1987 Pursuant to 40 CFR 1506.9

EIS No. 870304, Draft, SCS, IN, Muddy Fork of Silver Creek Watershed, Flood Prevention and Watershed Protection, Clark, Floyd and Washington Counties, Due: November 2, 1987, Contact: Robert Eddleman (317) 248-4350.

EIS No. 870305, Draft, FHW, PA, Mount Union Borough Traffic Relief Traffic Route 522/Legislative Route 121, Section 001 Improvement, Juniata Drive to TR-522 and US 22, Huntingdon County, Due: November 25, 1987, Contact: Manuel Marks (717) 782-2222.

EIS No. 870306, Draft, AFS, WA, Colville National Forest, Land and Resource Management Plan, Perry, Pend Oreille, and Stevens Counties, Due: December 18, 1987, Contact: Cecil Armstrong (509) 684-3711.

EIS No. 870307, Final, BLM, NV, Schell Resource Area Wilderness Study Areas, Wilderness Recommendations, Designation, Nye, White Pine, and Lincoln Counties, Due: October 19, 1987, Contact: Gerald Smith (702) 289-4865.

EIS No. 870308, Draft, COE, LA, Louisiana Army Ammunition Plant, Chemical and Industrial Complex, Construction and Operation, Research Development Explosive and High Melt Explosive (RDX/HMX) Expansion Program, Bossier and Webster Parishes, Due: November 2, 1987, Contact: Richard Makinen (202) 272-0166.

Dated: September 15, 1987.

William D. Dickerson,

Acting Director, Office of Federal Activities.

[FR Doc. 87-21677 Filed 9-17-87; 8:45 am]

BILLING CODE 6560-50-M

[ER-FRL-3263-8]

Environmental Impact Statements and Regulations; Availability of EPA Comments

Availability of EPA comments prepared August 31, 1987 through September 4, 1987 pursuant to the Environmental Review Process (ERP), under Section 309 of the Clean Air Act (CAA) and Section 102(2)(c) of the National Environmental Policy Act (NEPA) as amended. Requests for copies of EPA comments can be directed to the Office of Federal Activities at (202) 382-5076/73. An explanation of the ratings assigned to draft environmental impact statements (EISs) was published in **Federal Register** dated April 24, 1987 (52 FR 13749).

Draft EISs

ERP No. D-AFS-L65107-OR, Rating EC2, Bull Run Blowdown, Wind Damaged Trees Management Plan, Mt. Hood Nat'l Forest, OR. **SUMMARY:** EPA believes the final EIS should explain how past climatic conditions are representative of long-term climatic trends, including error analysis, and that the effects of bedload sediment storage and delivery in the watershed should be addressed. EPA also recommended that the final EIS examine a new alternative that focuses only on harvesting blowdown trees.

ERP No. D-BLM-J70013-MT, Rating EC2, West Hiline Planning Area, Resource Mgmt. Plan, MT. **SUMMARY:** EPA reviewed the draft EIS and Alternative C appears to provide a greater degree of protection for natural resources than the other alternatives including BLM's preferred Alternative D. EPA stated that detailed plans for monitoring, and mitigation of impacts to air and water quality should be developed including the criteria for implementation of these plans. These plans should be summarized and referenced or included as appendices to the EIS. Further, potential impacts to wetlands should be discussed in Chapter 4 for all the alternatives.

ERP No. D-COE-C35010-VI, Rating 3, Limetree Bay, Third Port Project, Expansion, Port Facilities and Deepwater Port Improvement, Sect. 10 and 404 Permit, VI. **SUMMARY:** EPA concludes that the document does not provide adequate analyses of project need and alternatives, and does not adequately address the potentially significant impacts to wetlands, water quality, and cultural resources. EPA requests that additional information be provided in a supplemental draft EIS, prior to preparation of the final EIS for the project. If EPA concerns are not addressed adequately, this project may be a candidate for referral to the Council on Environmental Quality.

ERP No. D-COE-H30000-IA, Rating LO, Des Moines Recreational River and Greenbelt Area, Development, Operation and Maintenance, Des Moines River, IA. **SUMMARY:** EPA is concerned about the draft EIS's failure to identify the adverse impacts that may result from implementation of several of the planned projects, but understands that each project will ultimately be evaluated separately for NEPA compliance. EPA suggests that future documentation fully address potential adverse impacts of individual projects.

ERP No. D-FHW-C40120-NY, Rating EC2, Lockport Expressway/I-990 Extension, North French Rd. to Millersport Highway/NY-263 to Transit Rd., Sect. 404 Permit, NY. **SUMMARY:** EPA has environmental concerns about the project's potential impacts to wetlands, water quality and induced secondary development. EPA requested additional information regarding these impacts in the final EIS.

ERP No. D-FHW-E40613-FL, Rating EC2, Apollo Hickory Corridor/Bridge Improvements and Construction, US 1 at Apollo II Blvd. to US 1 at Aurora Rd., Crane Creek and Eau Gallie River, Sect. 404 and 10 Permits, FL. **SUMMARY:** EPA's main concern with the draft EIS was that some substantial noise impacts would result if a build alternative were implemented from the highway segments presented. Elevations as high as +25 dBA were predicted. EPA requested that the final EIS include reconsideration of noise mitigation, mitigation of wetland losses on a 1.5:1 basis, and avoidance of hazardous waste sites.

ERP No. D-FHW-E40707-MS, Rating EC2, MS-301 Reconstruction, MS-304 to Tennessee State Line, MS. **SUMMARY:** EPA's main concerns with the draft EIS were that some predicted noise impacts were substantial and that wetland sites in the project area were not reflected in the draft EIS. Noise mitigation and description and mitigation of wetland losses were requested.

Final EISs

ERP No. FS-COE-A34109-OK, Clayton (Sardis) Lake, Jackfork Creek, Dam and Lake Construction, Daisy to Sardis Lake Access Road Construction, Additional Information, OK. **SUMMARY:** EPA has no objections to the proposed action as described. The final EIS has adequately addressed EPA's previous concerns expressed on the draft EIS.

Regulations

ERP No. R-BLM-A65153-00, 43 CFR Part 4100, Grazing Administration, Exclusive of Alaska (52 FR 19032). **SUMMARY:** EPA supports the objectives of the proposed regulation, but is concerned that provisions for monitoring and enforcement under Cooperative

Management Agreements need strengthening.

ERP No. R-FAA-A52063-00, 14 CFR Parts 36 and 91, Noise Standards and Air Traffic Operating and Flight Rules; Proposed Limits on the Growth of Noise From Certain Airplanes and Airplane Types (52 FR 23144). **SUMMARY:** EPA has no objection to the rule as proposed.

Dated: September 15, 1987.

William D. Dickerson,

Acting Director, Office of Federal Activities.

[FR Doc. 87-21678 Filed 9-17-87; 8:45 am]

BILLING CODE 6560-50-M

[ER-FRL-3264-1]

Designation of Ocean Dredged Material Disposal Site (ODMDS) off Port Aransas, TX; Intent To Prepare an Environmental Impact Statement (EIS)

AGENCY: Environmental Protection Agency (EPA), Region VI.

ACTION: Notice of intent to prepare an environmental impact statement on the final designation of an ODMDS off Port Aransas, Texas.

Purpose: The U.S. EPA, Region VI, in accordance with section 102(2)(c) of the National Environmental Policy Act (NEPA) and in cooperation with the U.S. Navy will prepare a Draft EIS on the designation of an ODMDS off Port Aransas, Texas. An EIS is needed to provide the information necessary to designate an ODMDS. This Notice of Intent is issued pursuant to section 102 of the Marine Protection, Research and Sanctuaries Act of 1972, and 40 CFR Part 228 (Criteria for the Management of Disposal Sites for Ocean Dumping).

For Further Information and To Be Placed on the ODMDS Project Mailing List Contact:

Norm Thomas (6E-F), EPA, 1445 Ross Avenue, Dallas, Texas 75202-2733, (214) 655-2260, (FTS) 255-2260

or

Laurens Pitts, Naval Facilities, Engineering Command, P.O. Box 10068, Charleston, South Carolina 29411-0068, (803) 743-0797

Summary: The U.S. Navy proposes to establish a new homeport for a group of ships of Corpus Christi/Ingleside, Texas (Homeport Project). Widening and deepening of the Corpus Christi Ship Channel is required by the project. Approximately 5.3 million cubic yards of new work and maintenance material is proposed for disposal.

Need for Action: The U.S. Navy has requested that EPA designate an ODMDS offshore Port Aransas, Texas for the disposal of dredged material from the Homeport Project when ocean disposal is the preferred disposal alternative. An EIS is required to provide the necessary information to evaluate alternatives and designate the preferred ODMDS.

Alternatives: Alternatives to be evaluted include no action (defined as not designating an ODMS), upland disposal and several offshore disposal site alternatives (e.g., mid-shelf site, continental slope site and two near shore sites).

Scoping: A scoping meeting is not contemplated. Scoping with affected federal, state and local agencies and with interested parties is being accomplished by correspondence.

Estimated Date of Release: The Draft EIS will be made available in November 1987.

Responsible Official: Mr. Robert E. Layton Jr., P.E., Regional Administrator, Region VI.

Date: September 15, 1987

William D. Dickerson,

Acting Director, Office of Federal Activities.

[FR Doc. 87-21679 Filed 9-17-87; 8:45 am]

BILLING CODE 6560-50-M

[ECAO-R-204; (FRL-3261-6)]

Workshop on Interim Methods for Development of Inhalation Reference Doses; Public Meeting

AGENCY: Environmental Protection Agency.

ACTION: Notice of public meeting.

SUMMARY: This Notice announces a workshop to be held by EPA's Office of Health and Environmental Assessment in Classroom I, EPA Technical Center, Research Triangle Park, North Carolina 27711. The meeting will focus on a peer review of a draft document entitled "Interim Methods for Development of Inhalation Reference Doses" ("Methods Document").

DATES: The workshop will be held on October 5 and 6, 1987, from 10:00 am to 5:00 pm. Members of the public are invited to attend as observers.

FOR FURTHER INFORMATION CONTACT: Mark Greenberg, Environmental Criteria and Assessment Office (MD-52), U.S. Environmental Protection Agency, Research Triangle Park, NC 27711, (919) 541-4156 (FTS 629-4156).

SUPPLEMENTARY INFORMATION: The Methods Document proposes procedures for EPA's evaluation of potential risks from inhalation exposure to chemicals in the environment. The draft of a paper reviewing the appropriateness of using workplace exposure levels for estimating the risk of ambient air exposure will also be discussed.

Copies of the workshop draft will be available to the public at the meetings, and observers will have an opportunity to make brief oral statements.

Topics to be discussed include: Factors modulating species-comparative inhaled dose; guidelines for selection of key studies; dose-response relationships and the uncertainty factor approach; identification of sensitive population sub-groups; and use of occupational exposure levels in inhalation risk estimation.

Date: September 9, 1987.

Vaun A. Newill,

Assistant Administrator for Research and Development.

[FR Doc. 87-21604 Filed 9-17-87; 8:45 am]

BILLING CODE 6560-50-M

[OPTS-59831; FRL 3261-4]

Certain Chemicals Premanufacture Notices

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: Section 5(a)(1) of the Toxic Substances Control Act (TSCA) requires any person who intends to manufacture or import a new chemical substance to submit a premanufacture notice (PMN) to EPA at least 90 days before manufacture or import commences. Statutory requirements for section 5(a)(1) premanufacture notices are discussed in EPA statements of the final rule published in the **Federal Register** of May 13, 1983 (48 FR 21722). In the **Federal Register** of November 11, 1984 (49 FR 46066) (40 CFR 723.250), EPA published a rule which granted a limited exemption from certain PMN requirements for certain types of polymers. Notices for such polymers are reviewed by EPA within 21 days of receipt. This notice announces receipt of ten such PMNs and provides the summary.

DATES: Close of Review Period:

Y 87-240 and 87-241, September 17, 1987
Y 87-242 and 87-243, September 20, 1987
Y 87-244 and 87-245, September 21, 1987
Y 87-246, 87-247, 87-248 and 87-249, September 23, 1987

FOR FURTHER INFORMATION CONTACT: Stephanie Roan, Premanufacture Notice Management Branch, Chemical Control Division (TS-794), Office of Toxic Substances, Environmental Protection Agency, Rm. E-611, 401 M Street, SW., Washington, DC 20460, (202) 382-3725.

SUPPLEMENTARY INFORMATION: The following notice contains information extracted from the non-confidential version of the exemption received by EPA. The complete non-confidential documents are available in the Public Reading Room NE-G004 at the above address between 8:00 a.m. and 4:00 p.m., Monday through Friday, excluding legal holidays.

Y 87-240

Manufacturer. The Dow Chemical Company.
Chemical. (G) Modified polyethylene.
Use/Production. (G) Film. Prod. range: Confidential.

Y 87-241

Importer. Air Products and Chemicals, Incorporated.
Chemical. (S) Polymer of vinyl acetate; vinyl laurate; vinyl versatate; and polyvinyl alcohol.
Use/Import. (S) Industrial and commercial polymer modifier for Portland cement stucco. Import range: 50,000 to 150,000 kg/yr.

Y 87-242

Manufacturer. Confidential.
Chemical. (G) Polymer of alkyl diol; monocyclic dicarboxylic acid, dimethyl ester; monocyclic monosulfonated monocarboxylic acid, monosodium salt cyclic ether; and water.
Use/Production. (G) Component of consumer products. Prod. range: Confidential.

Y 87-243

Manufacturer. Confidential.
Chemical. (G) Polymer of alkyl diol; monocyclic dicarboxylic acid, dimethyl ester; monocyclic monosulfonated monocarboxylic acid, methyl ester, monosodium salt cyclic ether; and water.
Use/Production. (G) Component of consumer products. Prod. range: Confidential.

Y 87-244

Importer. Unitika America Corporation.
Chemical. (G) Co-polyester.
Use/Import. (S) Industrial resin powder for coating on metal surface. Import range: 30,000 to 50,000 kg/yr.

Y 87-245

Importer. Mitsubishi International Corporation.
Chemical. (S) Methylmethacrylate, laurylmethacrylate, tridecylmethacrylate.
Use/Import. (S) Industrial and commercial resin for conductive coating. Import range: 50,000 to 100,000 kg/yr.

Y 87-246

Manufacturer. Confidential.
Chemical. (G) Alkyd resin.
Use/Production. (S) Industrial vehicle for making printing ink. Prod. range: 70,000 to 105,000 kg/yr.

Y 87-247

Manufacturer. Confidential.
Chemical. (G) Alkyd resin.
Use Production. (S) Industrial ingredient in another reaction combining this resin with toluenediisocyanate to produce a polyurethane resin. Prod. range: 16,500 to 24,750 kg/yr.

Y 87-248

Manufacturer. Confidential.
Chemical. (G) Polyurethane resin.
Use Production. (S) Industrial vehicle for making printing ink. Prod. range: 18,500 to 28,000 kg/yr.

Y 87-249

Manufacturer. Confidential.
Chemical. (G) Alkyd resin.
Use/Production. (S) Industrial typical use involves blending with laquer type-systems for the purpose of performance/physical property modification. Prod. range: 33,00O to 50,00O kg/yr.

Date: September 8, 1987.

Denise Devoe,

Acting Director, Information Management Division, Office of Toxic Substances.

[FR Doc. 87-21338 Filed 9-17-87; 8:45 am]
BILLING CODE 6560-50-M

[OPTS-51692; FRL-3261-3]

Certain Chemicals Premanufacture Notices

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: Section 5(a)(1) of the Toxic Substances Control Act (TSCA) requires any person who intends to manufacture or import a new chemical substance to submit a premanufacture notice (PMN) to EPA at least 90 days before manufacture or import commences. Statutory requirements for section 5(a)(1) premanufacture notices are discussed in the final rule published in the **Federal Register** of May 13, 1983 (48 FR 21722). This notice announces receipt of forty-two such PMNs and provides a summary of each.

DATES: *Close of Review Period:*

P 87-1658, 87-1659 and 87-1660, November 25, 1987
P 87-1661, 87-1662, 87-1663, 87-1664, 87-1665, 87-1666, 87-1667 and 87-1668, November 28, 1987
P 87-1669, 87-1670, 87-1671, 87-1672, 87-1673, 87-1674, 87-1675, 87-1676, 87-1677, 87-1678, 87-1679, 87-1680, 87-1681, 87-1682, 87-1683, 87-1684 and 87-1685, November 29, 1987
P 87-1686, 87-1687, 87-1688, 87-1689, 87-1690, 87-1691, 87-1692, 87-1693 and 87-1694, November 30, 1987
P 87-1695, 87-1696, 87-1697, 87-1698 and 87-1699, December 1, 1987
Written comments by:
P 87-1658, 87-1659 and 87-1660, October 26, 1987
P 87-1661, 87-1662, 87-1663, 87-1664, 87-1665, 87-1666, 87-1667 and 87-1668, October 29, 1987
P 87-1669, 87-1670, 87-1671, 87-1672, 87-1673, 87-1674, 87-1675, 87-1676, 87-1677, 87-1678, 87-1679, 87-1680, 87-1681, 87-1682, 87-1683, 87-1684 and 87-1685, October 30, 1987
P 87-1686, 87-1687, 87-1688, 87-1689, 87-1690, 87-1691, 87-1692, 87-1693 and 87-1694, October 31, 1987
P 87-1695, 87-1696, 87-1697, 87-1698 and 87-1699, November 1, 1987

ADDRESS: Written comments, identified by the document control number "[OPTS-51692]" and the specific PMN number should be sent to: Document Processing Center (TS-790), Office of Toxic Substances, Environmental Protection Agency, Rm. L-100, 401 M Street, SW., Washington, DC 20460, (202) 554-1305.

FOR FURTHER INFORMATION CONTACT: Stephanie Roan, Premanufacture Notice Management Branch, Chemical Control Division (TS-794), Office of Toxic Substances, Environmental Protection Agency, Rm. E-611, 401 M Street, SW., Washington, DC 20460, (202) 382-3725.

SUPPLEMENTARY INFORMATION: The following notice contains information extracted from the non-confidential version of the PMNs received by EPA. The complete non-confidential PMNs are available in the Public Reading Room NE-G004 at the above address between 8:00 a.m. and 4:00 p.m., Monday through Friday, excluding legal holidays.

P 87-1658

Manufacturer. E.I. du Pont de Nemours and Company, Inc.
Chemical. (G) Pyridylphenylindole.
Use/Production. (S) Site-limited and industrial intermediate. Prod. range: 7.33 to 22 kg/yr.

P 87-1659

Manufacturer. E.I. du Pont de Nemours and Company, Inc.
Chemical. (G) Pyridinylethanone diphenylhydrazone.

Use/Production. (S) Site-limited and industrial intermediate. Prod. range: 16 to 48 kg/yr.

P 87-1660

Importer. The Dow Chemical Company.
Chemical. (G) Halogenated alkene.
Use/Import. (S) Industrial intermediate. Import range: Confidential.

P 87-1661

Manufacturer. Confidential.
Chemical. (G) Cycloalkenyl substituted alkyl alkenal.
Use/Production. (G) Site-limited intermediate. Prod. range: Confidential.

P 87-1662

Manufacturer. Confidential.
Chemical. (G) Blocked aliphatic aromatic polyurethane.
Use/Production. (S) Industrial polymeric automotive coating component. Prod. range: 22,200 to 43,000 kg/yr.

P 87-1663

Manufacturer. Confidential.
Chemical. (G) Oil modified high solids aliphatic urethane.
Use/Production. (S) Exterior industrial coatings. Prod. range: Confidential.

P 87-1664

Importer. Uniroyal Chemical Company, Incorporated.
Chemical. (G) Substituted aromatic amine.
Use/Import. (S) Industrial modifier for amine-cured epoxy systems. Import range: Confidential.

P 87-1665

Manufacturer. Confidential.
Chemical. (G) Trimer acid polyamine salts.
Use/Production. (G) Destructive use. Prod. range: Confidential.

P 87-1666

Manufacturer. Confidential.
Chemical. (G) Alkenylsuccinic acid polyamine salts.
Use/Production. (G) Destructive use. Prod. range: Confidential.

P 87-1667

Importer. Confidential.
Chemical. (G) Diphenylmethane diisocyanate terminated polyether prepolymer.
Use/Import. (S) Industrial polyurethane prepolymer for adhesives, various substrates. Import range: Confidential.

P 87-1668

Importer. Asahi Chemical Manufacturing Company, Incorporated.
Chemical. (S) Sodium 5-nitroguaiacolate.
Use/Import. (S) Commercial and consumer plant and soil auxiliary substance. Import range: 5 to 20 kg/yr.
Toxicity Data. Ames test: Non-mutagenic.

P 87-1669

Manufacturer. Arizona Chemical Company.
Chemical. (G) Substituted terpene resin.
Use/Production. (G) Resin for use in adhesives. Prod. range: Confidential.

P 87-1670

Manufacturer. Arizona Chemical Company.
Chemical. (G) Substituted terpene resin.
Use/Production. (G) Resin for use in adhesives. Prod. range: Confidential.

P 87-1671

Manufacturer. Hoechst Celanese Corporation.
Chemical. (G) Aromatic polyhydroxy compound, mixed diazonaphthoquinone sulfonic acid esters.
Use/Production. (S) Industrial photoresist sensitizer. Prod. range: Confidential.

P 87-1672

Importer. Confidential.
Chemical. (G) Salt of a substituted heterocyclicimino alkenyl, substituted thiazole.
Use/Import. (G) Commercial contained use in an article. Import range: 10 to 20 kg/yr.
Toxicity Data. Acute oral: 5.0 g/kg; Acute dermal: >2,000 mg/kg.

P 87-1673

Manufacturer. Confidential.
Chemical. (G) Ester of alkenyl succinic anhydride.
Use/Production. (G) Alkaline sizing agent in paper processing. Prod. range: Confidential.

P 87-1674

Manufacturer. Confidential.
Chemical. (G) Methylphenyl substituted spiro[isobenzofuranxanthenone].
Use/Production. (G) Minor color-forming component in paper coatings. Prod. range: Confidential.

P 87-1675

Manufacturer. Confidential.
Chemical. (G) Alkyl substituted diphenylamine.
Use/Production. (G) Captive intermediate. Prod. range: Confidential.

P 87-1676

Manufacturer. Confidential.
Chemical. (G) Ester of alkenyl succinic anhydride.
Use/Production. (G) Alkaline sizing agent in paper processing. Prod. range: Confidential.

P 87-1677

Manufacturer. Confidential.
Chemical. (G) Ester of alkenyl succinic anhydride.
Use/Production. (G) Alkaline sizing agent in paper processing. Prod. range: Confidential.

P 87-1678

Importer. Nuodex Incorporated.
Chemical. (S) 3-Dodecyl-1-(1,2,2,6,6,-pentamethyl-4-piperidinyl)-2,5-pyrrolidinedione.
Use/Import. (S) Light stabilizer for plastics lacquers and coatings.
Import range: 3,000 to 30,000 kg/yr.
Toxicity Data. Acute oral: >2,500 mg/kg; Irritation:
Skin—Severely corrosive.

P 87-1679

Manufacturer. Confidential.
Chemical. (G) Ester of alkenyl succinic anhydride.
Use Production. (G) Alkaline sizing agent in paper processing. Prod. range: Confidential.

P 87-1680

Manufacturer. Confidential.
Chemical. (G) Ester of alkenyl succinic anhydride.
Use/Production. (G) Alkaline sizing agent in paper processing. Prod. range: Confidential.

P 87-1681

Manufacturer. Confidential.
Chemical. (G) Disubstituted aminophenyl azo disubstituted heteropolycycle.
Use/Production. (G) Open, non-dispersive use. Prod. range: Confidential.

P 87-1682

Manufacturer. Confidential.
Chemical. (G) An alkoxide.
Use/Production. (G) Reactant for use in organic synthesis. Prod. range: Confidential.

P 87-1683

Manufacturer. PPG Glass Group.
Chemical. (G) Acrylic terpolymer.
Use/Production. (G) Open, non-dispersive use as a component in coating. Prod. range: 25 to 50 kg/yr.

P 87-1684

Manufacturer. Sherex Chemical Company.

Chemical. (S) Hexadecanaminium, N,N-dihexadecyl-N-methyl-, chloride.

Use/Production. (G) Personal care. Prod. range: Confidential.

P 87-1685

Manufacturer. Hoechst Celanese Corporation.

Chemical. (G) Fiber reactive monoazo dyestuff.

Use/Production. (G) Fiber reactive dye for fibers. Prod. range: 19,000 to 57,000 kg/yr.

Toxicity Data. Acute oral: >5,000 mg/kg; Acute dermal: >2,000 mg/kg; Irritation: Skin—Non-irritant, Eye—Non-irritant; Ames test: Non-mutagenic; Skin sensitization: Non-sensitizer; LC_{50} 96 hr. (Zebra Fish): >500 mg/1.

P 87-1686

Manufacturer. The Dow Chemical Company.

Chemical. (G) Modified impact polystyrene.

Use/Production. (S) Industrial extrusion and injection molding of plastic articles. Prod. range: Confidential.

P 87-1687

Manufacturer. The Dow Chemical Company.

Chemical. (G) Modified impact polystyrene.

Use/Production. (S) Industrial extrusion and injection molding of plastic articles. Prod. range: Confidential.

P 87-1688

Manufacturer. The Dow Chemical Company.

Chemical. (G) Halogenated alkyl pyrimidine.

Use/Production. (S) Site-limited intermediate. Prod. range: Confidential.

P 87-1689

Manufacturer. The Dow Chemical Company.

Chemical. (G) Modified methacrylate.

Use/Production. (S) Site-limited and industrial monomer for preparation of cross-linked resins. Prod. range: Confidential. Toxicity Data. Acute oral: >2,000 mg/kg.

P 87-1690

Manufacturer. The Dow Chemical Company.

Chemical. (G) Modified methacrylate.

Use/Production. (S) Site-limited and industrial monomer for preparation of cross-linked resins. Prod. range: Confidential.

Toxicity Data. Acute oral: >2,000 mg/kg.

P 87-1691

Manufacturer. The Dow Chemical Company.

Chemical. (G) Modified methacrylate.

Use/Production. (S) Site-limited and industrial monomer for preparation of cross-linked resins. Prod. range: Confidential.

Toxicity Data. Acute oral: >2,000 mg/kg.

P 87-1692

Manufacturer. The Dow Chemical Company.

Chemical. (G) Modified methacrylate.

Use/Production. (S) Site-limited and industrial monomer for preparation of cross-linked resins. Prod. range: Confidential.

Toxicity Data. Acute oral: > 2,000 mg/kg.

P 87-1693

Manufacturer. Confidential.

Chemical. (G) Polyester resin.

Use/Production. (G) Intermediate for electrical insulation coating. Prod. range: Confidential.

P 87-1694

Manufacturer. Confidential.

Chemical. (G) Metalated alkylphenol formaldehyde copolymer.

Use/Production. (G) Open, non-dispersive use. Prod. range: Confidential.

P 87-1695

Manufacturer. Confidential.

Chemical. (G) Mercapto tetrazole derivative.

Use/Production. (G) Contained use in article. Prod. range: Confidential.

P 87-1696

Importer. Confidential.

Chemical. (G) Amine salt of phosphoric acid.

Use/Import. (G) Commercial open, non-dispersive use. Import range: Confidential.

P 87-1697

Manufacturer. Confidential.

Chemical. (G) Pyrazolone ester.

Use/Production. (G) Captive intermediate. Prod. range: Confidential.

P 87-1698

Manufacturer. The Dow Chemical Company.

Chemical. (G) Modified polycarbonate.

Use/Production. (G) Industrial and commercial thermoplastic resin for sheet and film; transportation and recreational; electronics/appliance and medical/ophthalmic/media storage. Prod. range: Confidential.

P 87-1699

Importer. Dragoco, Incorporated.

Chemical. (S) Bicyclo[3.2.1]octan-8-one, 1,5-dimethyl-, oxime. Use/Import. (S) Fragrance mixture in soaps, detergents, room fresheners, and household cleaners. Import range: 1,200 to 1,500 kg/yr.

Toxicity Data. Acute oral: > 730 mg/kg; Irritation: Eye—Non-irritant; Skin sensitization: Non-sensitizer.

Date: September 8, 1987.

Denise Devoe,

Acting Director, Information Management Division, Office of Toxic Substances.

[FR Doc. 87-21339 Filed 9-17-87; 8:45 am]

BILLING CODE 6560-50-M

[FRL-3260-8]

Underground Injection Control Program; Radioactive Tracer Survey Approval

AGENCY: Environmental Protection Agency.

ACTION: Notice with request for comments.

SUMMARY: Notice is hereby given today that the Director of the Office of Drinking Water, Environmental Protection Agency (EPA), is proposing to grant approval for use of the Radioactive Tracer Survey (RTS) as an alternate mechanical integrity test (MIT) to demonstrate that there is: (1) No significant leak in the casing, tubing or packer; and (2) under certain conditions where the underground source of drinking water (USDW) directly overlies an injection zone, separated only by a confining zone, no significant fluid movement into an underground source of drinking water through vertical channels adjacent to the injection well bore. The radioactive tracer survey will also demonstrate that there is no significant upward migration of injection fluids behind the casing from the injection zone. The RTS alternative mechanical integrity test is proposed for all classes of injection wells, and both Federal and State-administered UIC programs could accept the radioactive tracer survey as a means of meeting the requirements of 40 CFR 146.8(b) and, under the conditions previously described, (c). The Agency is requesting comments and data relating to the viability of this alternative.

DATES: Written comments and any referenced data must be submitted on or

before October 19, 1987. If significant comments are received, EPA will publish a subsequent notice. If no significant public comments are received which warrant changes to this proposal, this proposal will become final on November 17, 1987.

ADDRESSES: Send written comments on this alternative to Eric J. Callisto, Environmental Protection Agency, Office of Drinking Water (WH-550A), 401 M Street SW., Washington, DC 20460. A copy of the comments and supporting documents will be available for review during normal business hours at the EPA, Room 1013C, East Tower, 401 M Street SW., Washington, DC, and in the UIC Section at all EPA Regional offices.

FOR FURTHER INFORMATION CONTACT: Bruce J. Kobelski, Office of Drinking Water (WH-550A) U.S. EPA, Washington, DC 20460; (202) 382-7275.

SUPPLEMENTARY INFORMATION:

I. Background

The Safe Drinking Water Act (SDWA) (42 U.S.C. 300h, *et seq.*) protects underground sources of drinking water from contamination by injection wells. One of the cornerstones of the Underground Injection Control (UIC) program is the mechanical integrity of the wells. The regulations for the UIC program define mechanical integrity as the absence of significant leaks in the casing, tubing, or packer and the absence of significant fluid movement into an underground source of drinking water through vertical channels adjacent to the injection well bore. Acceptable methods of evaluating mechanical integrity are specified in 40 CFR 146.8. That section also provides that the Director of a State program may allow alternate mechanical integrity tests under certain conditions.

Section 146.8(d) states that: "the Director may allow the use of a test to demonstrate mechanical integrity other than those listed in paragraph (b) and (c)(2) of this section with the written approval of the Administrator. To obtain approval, the Director shall submit a written request to the Administrator, which shall set forth the proposed test and all technical data supporting its use. The Administrator shall approve the request if it will reliably demonstrate the mechanical integrity of wells for which its use is proposed. Any alternate method approved by the Administrator shall be published in the **Federal Register** and may be used in all States unless its use is restricted at the time of approval by the Administrator."

The Director of the Office of Drinking Water has been delegated the authority to approve alternative tests. The Director of the UIC program for the State of Arkansas originally requested that the EPA approve this method to demonstrate mechancial integrity.

EPA has approved the use of the radioactive tracer survey for several individual States. Most of those were approved with the State's primacy application. The following States are allowed to use the radioactive tracer survey for demonstrating no fluid movement from the injection zone subject to certain conditions: Louisiana (Class I Wells); and Texas (all wells); and the Osage Mineral Reserve, Oklahoma (Class II wells). Furthermore, the States of Texas and Kansas, and the Osage Mineral Reserve, Oklahoma, have approval to use the tracer survey for demonstrating no significant leak in the casing, tubing or packer.

II. Basis for Approval

EPA has reviewed several reports, studies and other data on which to base this proposal. Ransom (1975) has stated that radioactive tracer surveys are used to study the movement of radioactive tracers in the immediate vicinity of the borehole. These surveys also can be used in injection wells to determine the presence of tubing, casing or packer leaks or to aid in the detection of channeling from the injection zone behind the casing (Nielsen and Aller, 1984). Furthermore, EPA has learned that numerous Class I and II facilities use this test during normal operation to demonstrate no flow up along casings and no flow outside casing. In addition, the radioactive tracer survey (RTS) is now used widely throughout the oil and gas industry to verify that injection fluids are properly emplaced into the desired injection zone, because the tracer survey provides more definitive information on this fluid movement than temperature or noise logs.

Although many references exist regarding the design and applicability of the radioactive tracer survey in injection wells, one comprehensive publication is the "Society of Petroleum Engineers (SPE) Production Logging Reprint, Volume 19." Some States, such as Louisiana, have established guidelines for logging companies and well operators to follow in running the radioactive tracer survey. An EPA-sponsored study by the Louisiana Department of Natural Resources entitled, "Radioactive Tracer Survey—Cement Bond Log Study as Related to the Mechanical Integrity Testing of Injection Wells" also demonstrates that tracer surveys can be used to help determine casing, tubing, and packer leaks and can help detect channeling in the cement beind casing if other logs, such as a cement bond log, are run in conjunction with the RTS.

III. Description of the Test

A. Leak Detection

The tracer survey is based on the principle that when a controlled slug of a short-lived radioactive material is released into the injeciton stream, it can be detected as it progresses down the well. As the radioactive material moves downward, it will exit the casing or tubing where the leak exists. The tracer survey will locate this leak. It should be noted that a tracer survey will only detect leaks in the string in which the tool is run. Accordingly, if the casing is to be examined, the tubing must be pulled.

B. Fluid Migration Detection

For the determination of fluid migration, a series of logging runs using a gamma ray detector will define the pathway of injected fluids. If the fluids are contained in the injection zone, then the tracer survey will indicate this. More than one logging run should be made; interpretation is accomplished by comparing logs obtained before and after radioactive tracer ejection (Nielsen and Aller, 1984).

C. Radioactive Tracer Surveys Methods

The radioactive tracer survey can be run in two different manners. The velocity-shot method measures the travel time of the radioactive material between the ejector and detector(s). This method is normally used to detect flow into perforations and to quantify the flow rate. The velocity shot method is useful for detailing specific portions of the wellbore; however, it does not offer assurance that the entire lenght of the wellbore is free from additional fluid leaks.

The second manner of running the radioactive tracer survey is the timed-run method. With this method, the vertical variation of the radioactive slug with time is measured. The timed-run method allows detection of any vertical migration of the slug from leaks in the tubing, casing, or from improperly isolated injection zones. Therefore it can determine if fluids are being properly emplaced into the injection zone. It is this method that is primarily used to detect unwanted movement of the injected fluid and leaks.

IV. Special Conditions

A. Limitations on ths Use of the RTS

EPA has investigated the characteristics of the radioactive tracer

survey, and believes at this time that the following limitations and conditions should be placed on its use.

(1) The most important limitation of the tracer survey is its inability to identify fluid movement between formations behind the casing of wells in which: (1) There are no casing leaks; and (2) the injection zone is adequately isolated with no fluid movement from the injection zone through vertical channels adjacent to the wellbore. Therefore, it is not capable of verifying interformational fluid movement of non-injected fluids between or into USDWs above a confined injection zone. In the case where interformational fluid movement exists in a channel behind a leakless casing, the RTS will not be effective since it can only test the integrity of the cement at the casng shoe. However, in a case where the USDW is above the injection zone, and where only an impermeable confining zone intervenes, then the radioactive tracer survey can adequately demonstrate the existence or absence of significant fluid movement into an underground source of drinking water through vertical channels adjacent to the injection well bore. Only in his case does the radioactive tracer survey meet the demonstration for 40 CFR 146.8(c).

(2) Approval of the radioactive tracer survey is limited at this time to the timed-run method of logging, which is the method best suited for the detection of unwanted movement or release of injected fluids and excludes logs using the velocity-shot method;

(3) The tubing and packer must be pulled from the well if the tracer survey will be used to locate a casing leak. This enables the logging tool to be properly centralized in the hole and prevents an undetected tubing or packer leak to affect RTS log interpretation;

(4) A base gamma ray log must be run for comparison with the tracer runs. The base gamma ray log (or background run) should be run immediately prior to the tracer survey; however, an existing gamma ray log which can be compared to the tracer survey (based on factors such as logging speed, scale, etc.) is acceptable;

(5) A casing collar locator (CCL) must be run for depth control in conjunction with the base gamma ray log;

(6) The test must be performed at the actual maximum operating pressure to ensure adequate detection of the tracer slug in the wellbore;

(7) RTS logs must be interpreted by a competent log analyst.

B. Procedures for conducting the RTS

Specific logging procedures or guidelines for running this test must be approved by the Director or by the EPA Region as applicable.

C. Determination

On the basis of the independent studies, the experience of the States, and its own research, EPA has concluded that the RTS, subject to the limitations and conditions previously outlined, has the ability to demonstrate mechanical integrity. Specifically it can show that there is:

(1) No significant leak in the casing, tubing or packer; and

(2) No significant fluid movement into an underground source of drinking water through vertical channels adjacent to the injection well bore, but only where the USDW is separated by an impermeable confining zone and is directly above the injection zone. The test has the added advantage of specifically demonstrating that the cement at the base of the well bore is not leaking.

EPA is therefore proposing its approval under 40 CFR 146.8(d) of the UIC regulations.

Date: September 8, 1987.

Michael B. Cook,

Director, Office of Drinking Water.

[FR Doc. 87-21608 Filed 9-17-87; 8:45 am]

BILLING CODE 6560-50-M

FEDERAL COMMUNICATIONS COMMISSION

Applications for Consolidated Hearing, PN Radio Co. et al.

1. The Commission has before it the following mutually exclusive applications for a new FM station:

Applicant city/State	File No.	MM Docket No.
A. PN Radio Company, Upper Arlington, OH.	BPH-860505MK	87-370
B. Mary Storer Mahaffey, Upper Arlington, OH.	BPH-860505MM	.....
C. Upper Arlington Radio, Inc., Upper Arlington, OH.	BPH-860505MN	.....
D. Knight Communications Corp., Upper Arlington, OH.	BPH-860505MO	.....
E. Andrew Love and Sheridan Broadcasting Corp. d/b/a/ New World Broadcasting Limited Partnership, Upper Arlington, OH.	BPH-860506MR	.....
F. Mirage Broadcasting Co., Inc., Upper Arlington, OH.	BPH-860506MS	.....
G. Loretta Marie Madved, Upper Arlington, OH.	BPH-860506MT	.....
H. Paul L. Parshall d/b/a/ Upper Arlington Broadcasting Col, Upper Arlington, OH.	BPH-860506MU	.....
I John W. Saeger *et al.*, d/b/a/ Tri-Village Broadcasting Association, Upper Arlington, OH.	BPH-860506MX	.....
J. G.C. Communications, A Limited Partnership, Upper Arlington, OH.	BPH-860507OQ	.....
K. Benjamin Macwan, Upper Arlington, OH.	BPH-860507OR	.....
L. Claire Tow, Upper Arlington, OH.	BPH-860507OS	.....
M. Walker Broadcasting Company, Upper Arlington, OH.	BPH-860507OT	.....
N. Donna Y. McDonnell, Upper Arlington, OH.	BPH-860507OU	.....
O. FM Telecommunications of Columbus, Inc., Upper Arlington, OH.	BPH-860507OV	.....
P. Johanna S. DeStefano, Upper Arlington, OH.	BPH-860507OX	.....
Q. Reginald Davis and Debra Davenport d/b/a/ DDB Communications, Ltd., Upper Arlington, OH.	BPH-860507OZ	.....
R. Geri Taczak, Upper Arlington, OH.	BPH-860507PA	.....
S. Carol Hector-Harris, Upper Arlington, OH.	BPH-860507PB	.....
T. Scioto Broadcasting, Ltd., Upper Arlington, OH.	BPH-860507PC	.....
U. James E. Martin, Jr. *et al.*, d/b/a/ BMS Communications of Upper Arlington, Upper Arlington, OH.	BPH-860507PD	.....
V. Rakel Communications, Inc., Upper Arlington, OH.	BPH-860507PE	.....
W. Kenneth E. Harris, Upper Arlington, OH.	BPH-860507PG	.....
X. First Ohio Broadcasting Corporation, Upper Arlington, OH.	BPH-860507PH	.....
Y. Innovative Broadcasting, Inc., Upper Arlington, OH.	BPH-860507PI	.....
Z. Haynes Broadcasting Group, Upper Arlington, OH.	BPH-860507PJ	.....
AA. Christine Michael Broadcasting, Inc., Upper Arlington, OH.	BPH-860507PK	.....
AB. American Radio Broadcasting Network, Inc., Upper Arlington, OH.	BPH-860507PL	.....
AC. Richard L. Plessinger, Sr., Upper Arlington, OH.	BPH-860507PM	.....
AD. Marlene V. Borman, Upper Arlington, OH.	BPH-860507PP	.....
AE. Energy Broadcasting, Upper Arlington, OH.	ARN-8600428MK	(DISMISSED)

2. Pursuant to section 309(e) of the Communications Act of 1934, as amended, the above applications have been designated for hearing in a consolidated proceeding upon the issues whose headings are set forth below. The text of each of these issues has been standardized and is set forth in its entirety under the corresponding headings at 51 FR. 19347, May 29, 1986. The letter shown before each applicant's name above is used below to signify whether the issue in question applies to that particular applicant.

Issue Heading and Applicant(s)

1. Environmental, AB, AC

2. Air Hazard, K,L,U,W,Y,Z,AB
3. Comparative, All Applicants
4. Ultimate, All Applicants

3. If there is any non-standardized issue(s) in this proceeding, the full text of the issue and the applicant(s) to which it applies are set forth in an Appendix to this Notice. A copy of the complete HDO in this proceeding is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street NW, Washington, DC. The complete text may also be purchased from the Commission's duplicating contracotr, International Transcription Services, Inc., 2100 M Street NW., Washington, DC 20037 (Telephone No. (202) 857-3800.

W. Jan Gay,

Assistant Chief, Audio Services Division, Mass Media Bureau.

[FR Doc. 87-21599 Filed 9-17-87; 8:45 am]

BILLING CODE 6712-01-M

FEDERAL MARITIME COMMISSION

Agreement(s) Filed

The Federal Maritime Commission hereby gives notice of the filing of the following agreement(s) pursuant to section 5 of the Shipping Act of 1984.

Interested parties may inspect and obtain a copy of each agreement at the Washington, DC Office of the Federal Maritime Commission, 1100 L Street, NW., Room 10325. Interested parties may submit comments on each agreement to the Secretary, Federal Maritime Commission, Washington, DC 20573, within 10 days after the date of the **Federal Register** in which this notice appears. The requirements for comments are found in § 572.603 of Title 46 of the Code of Federal Regulations. Interested persons should consult this section before communicating with the Commission regarding a pending agreement.

Agreement No.: 202-007680-067.
Title: American West African Freight Conference.
Parties:
America-Africa-Europe Line GMBH
Barber West Africa Line
Farrell Lines, Inc.
Maersk Line
Societe Ivoirienne de Transport Maritime, SITRAM
Torm West Africa Line
Westwind Africa Line
Synopsis: The proposed amendment would permit the parties to exercise independent action on the level of compensation paid to an ocean freight forwarder who is also a customs broker.

Agreement No.: 202-009420-011.
Title: United States Great Lakes and St. Lawrence River Conference.
Parties:
Black Star Line
Westwind Africa Line
Synopsis: The proposed amendment would permit the parties to exercise independent action on the level of compensation paid to an ocean freight forwarder who is also a customs broker.

Agreement No.: 203-011148.
Title: Western Mediterranean Stabilization Agreement.
Parties:
South Europe/U.S.A. Freight Conference
Ocean Star Container Line A.G.
Synopsis: The proposed agreement would permit the parties to agree upon rates, charges, service contracts, rules and practices governing the transportation of cargo in the trade from Italian, Yugoslavian, French Mediterranean and Spanish ports including Spanish North African, Mediterranean Island and Canary Island ports and Portuguese ports including ports on Madeira Island and points in Continental Europe via such ports to United States Atlantic and Gulf ports and all U.S. interior and coastal points via such ports. Cargo moving under service contracts of one party may be counted under any volume requirements in service contracts of the other.

By Order of the Federal Maritime Commission.

Tony P. Kominoth,

Assistant Secretary.

Dated: September 14, 1987.

[FR Doc. 87-21568 Filed 9-17-87; 8:45 am]

BILLING CODE 6730-01-M

FEDERAL RESERVE SYSTEM

Change in Bank Control; Acquisition of Shares of Banks or Bank Holding Companies

The notificant listed below has applied under the Change in Bank Control Act (12 U.S.C. 1817(j)) and § 225.41 of the Board's Regulation Y (12 CFR 225.41) to acquire a bank or bank holding company. The factors that are considered in acting on notices are set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The notices are available for immediate inspection at the Federal Reserve Bank indicated. Once the notices have been accepted for processing, they will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank indicated for that notice or to the offices of the Board of Governors. Comments must be received not later than October 2, 1987.

A. **Federal Reserve Bank of Dallas** (W. Arthur Tribble, Vice President) 400 South Akard Street, Dallas, Texas 75222:

1. *James R. Cole,* Many, Louisiana; to acquire 52.50 percent of the voting shares of Sabine Bancshares, Inc., Many, Louisiana, and thereby indirectly acquire Sabine State Bank & Trust Company, Many, Louisiana.

Board of Governors of the Federal Reserve System, September 14, 1987.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 87-21562 Filed 9-17-87; 8:45 am]

BILLING CODE 6210-01-M

Formations of; Acquisitions by; and Mergers of Bank Holding Companies; FNB Financial Corp., et al.

The companies listed in this notice have applied for the Board's approval under section 3 of the Bank Holding Company Act (12 U.S.C. 1842) and § 225.14 of the Board's Regulation Y (12 CFR 225.14) to become a bank holding company or to acquire a bank or bank holding company. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Each application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank or to the offices of the Board of Governors. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Unless otherwise noted, comments regarding each of these applications must be received not later than October 9, 1987.

A. **Federal Reserve Bank of Philadelphia** (Thomas K. Desch, Vice President) 100 North 6th Street, Philadelphia, Pennsylvania 19105:

1. *FNB Financial Corporation,* McConnellsburg, Pennsylvania; to become a bank holding company by acquiring 100 percent of the voting shares of The First National Bank of McConnellsburg, McConnellsburg, Pennsylvania.

B. **Federal Reserve Bank of Cleveland** (John J. Wixted, Jr., Vice President) 1455 East Sixth Street, Cleveland, Ohio 44101:

1. *Huntington Bancshares Incorporated,* Columbus, Ohio; to acquire 100 percent of the voting shares of United Midwest Bancorporation, Troy, Michigan, and thereby indirectly acquire Liberty State Bank and Trust Company, Hamtramck, Michigan, and Liberty State Bank of Oakland, Troy, Michigan. In connection with this application, Huntington Bancshares Michigan, Inc., Columbus, Ohio; to merge with United Midwest Bancorporation, Troy, Michigan, and thereby indirectly acquire Liberty State Bank and Trust Company, Hamtramck, Michigan, and Liberty State Bank of Oakland, Troy, Michigan.

C. **Federal Reserve Bank of Atlanta** (Robert E. Heck, Vice President) 104 Marietta Street, N.W., Atlanta, Georgia 30303:

1. *FMB Financial Holdings, Inc.,* Fayetteville, Georgia; to become a bank holding company by acquiring 89.1 percent of the voting shares of Farmers and Merchants Bank, Fayetteville, Georgia.

2. *Heritage Enterprises II,* Fayetteville, Georgia; to become a bank holding company by acquiring 89.1 percent of the voting shares of Farmers and Merchants Bank, Fayetteville, Georgia.

3. *SouthTrust Corporation,* Birmingham, Alabama; to merge with First Bankshares, Inc., Marianna, Florida, and thereby indirectly acquire The First Bank of Marianna, Marianna, Florida.

Board of Governors of the Federal Reserve System, September 14, 1987.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 87-21560 Filed 9-17-87; 8:45 am]

BILLING CODE 6210-01-M

Applications To Engage de Novo in Permissible Nonbanking Activities; Independence Bancorp, Inc., et al.

The companies listed in this notice have filed an application under § 225.23(a)(1) of the Board's Regulation Y (12 CFR 225.23(a)(1)) for the Board's approval under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.21(a) of Regulation Y (12 CFR 225.21(a)) to commence or to engage *de novo,* either directly or through a subsidiary, in a nonbanking activity that is listed in § 225.25 of Regulation Y as closely related to banking and permissible for bank holding companies. Unless otherwise noted, such activities will be conducted throughout the United States.

Each application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Unless otherwise noted, comments regarding the applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than October 9, 1987.

A. **Federal Reserve Bank of Philadelphia** (Thomas K. Desch, Vice President) 100 North 6th Street, Philadelphia, Pennsylvania 19105:

1. *Independence Bancorp, Inc.,* Perkasie, Pennsylvania; to engage *de novo* through its subsidiary, Independence Life Insurance Company, Phoenix, Arizona, in acting as a reinsurer of credit life, accident and health insurance issued in connection with extensions of credit made by the Applicant's subsidiary banks pursuant to § 225.25(b)(8) of the Board's Regulation Y. These activities will be conducted in Bucks, Montgomery, Chester, Delaware, Lehigh, Northampton and Lackawana Counties in Pennsylvania.

2. *USBANCORP, Inc.,* Johnstown, Pennsylvania; to engage *de novo* through its subsidiary, United Bancorp Life Insurance Company, Phoenix, Arizona, in acting as a reinsurer of credit life, accident and health insurance issued in connection with extensions of credit made by the Applicant's subsidiary banks pursuant to § 225.25(b)(8) of the Board's Regulation Y. These activities will be conducted in Allegheny, Blair, Cambria, Clearfield, Somerset, Washington and Westmoreland Counties in Pennsylvania.

B. **Federal Reserve Bank of Chicago** (David S. Epstein, Assistant Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. *Manufacturers National Corporation,* Detroit, Michigan; to engage *de novo* though its subsidiary, Manufacturers Affiliated Trust Company, Chicago, Illinois, in trust company activities pursuant to § 225.25(b)(3) of the Board's Regulation Y.

Board of Governors of the Federal Reserve System, September 14, 1987.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 87-21561 Filed 9-17-87; 8:45 am]

BILLING CODE 6210-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 87M-0241]

Visioncare Laboratories, Inc.; Premarket Approval of Vis-Sol ™ Saline Solution for Sensitive Eyes

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing its approval of the application by Visioncare Laboratories, Inc., Los Angeles, CA, for premarket approval, under the Medical Device Amendments of 1976, of VIS-SOL™ SALINE SOLUTION for SENSITIVE EYES. After reviewing the recommendation of the Ophthalmic Devices Panel, FDA's Center for Devices and Radiological Health (CDRH) notified the applicant of the approval of the application.

DATE: Petitions for administrative review by October 19, 1987.

ADDRESS: Written requests for copies of the summary of safety and effectiveness data and petitions for administrative review to the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: David M. Whipple, Center for Devices and Radiological Health (HFZ-460), Food and Drug Administration, 8757 Georgia Ave., Silver Spring, MD 20910, 301-427-7940.

SUPPLEMENTARY INFORMATION: On April 15, 1987, Visioncare Laboratories, Inc. ("Visioncare"), Los Angeles, CA 90048, submitted to CDRH an application for premarket approval of VIS-SOL™ SALINE SOLUTION for SENSITIVE

EYES. The device is indicated for use in the rinsing, heat disinfection, and storage of soft (hydrophilic) contact lenses. The application includes authorization to Visioncare from Stericon Laboratories, Inc. ("Stericon"). Hollywood, CA, for purposes of obtaining a PMA approval to facilitate a licensing agreement between Stericon and Visioncare, to incorporate the information contained in its approved premarket approval application for the Stericon™ Saline Solution (Docket No. 86M-0502).

On January 24, 1986, the Ophthalmic Devices Panel, an FDA advisory committee, reviewed and recommended approval of the Stericon™ application. On June 25, 1987, CDRH approved the Visioncare application by a letter to the applicant from the Director of the Office of Device Evaluation, CDRH.

A summary of the safety and effectiveness data on which CDRH based its approval is on file in the Dockets Management Branch (address above) and is available from that office upon written request. Requests should be identified with the name of the device and the docket number found in brackets in the heading of this document.

A copy of all approved labeling is available for public inspection at CDRH—contact David M. Whipple (HFZ-460), address above.

The labeling of VIS-SOL™ SALINE SOLUTION for SENSITIVE EYES states that the solution is indicated for use in the rinsing, heat disinfection, and storage of soft (hydrophilic) contact lenses. Manufacturers of soft (hydrophilic) contact lenses that have been approved for marketing are advised that whenever CDRH publishes a notice in the **Federal Register** of the approval of a new solution for use with an approved soft contact lens, the manufacturer of each lens shall correct its labeling to refer to the new solutions at the next printing or at such other time as CDRH prescribes by letter to the applicant.

Opportunity for Administrative Review

Section 515(d)(3) of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 360e(d)(3)) authorizes any interested person to petition, under section 515(g) of the act (21 U.S.C. 360e(g)), for administrative review of CDRH's decision to approve this application. A petitioner may request either a formal hearing under Part 12 (21 CFR Part 12) of FDA's administrative practices and procedures regulations or a review of the application and CDRH's action by an independent advisory committee of experts. A petition is to be in the form of a petition for reconsideration under § 10.33(b) (21 CFR 10.33(b)). A petitioner shall identify the form of review requested (hearing or independent advisory committee) and shall submit with the petition supporting data and information showing that there is a genuine and substantial issue of material fact for resolution through administrative review. After reviewing the petition, FDA will decide whether to grant or deny the petition and will publish a notice of its decision in the **Federal Register**. If FDA grants the petition, the notice will state the issue to be reviewed, the form of review to be used, the persons who may participate in the review, the time and place where the review will occur, and other details.

Petitioners may, at any time on or before October 19, 1987, file with the Dockets Management Branch (address above) two copies of each petition and supporting data and information, identified with the name of the device and the docket number found in brackets in the heading of this document. Received petitions may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

This notice is issued under the Federal Food, Drug, and Cosmetic Act (secs. 515(d), 520(h), 90 Stat. 554–555, 571 (21 U.S.C. 360e(d), 360j(h))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10) and redelegated to the Director, Center for Devices and Radiological Health (21 CFR 5.53).

Dated: September 11, 1987.

John C. Villforth,

Director, Center for Devices and Radiological Health.

[FR Doc. 87-21558 Filed 9-17-87; 8:45 am]

BILLING CODE 4160-01-M

Advisory Committees; Meetings

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: This notice announces forthcoming meetings of public advisory committees of the Food and Drug Administration (FDA). This notice also summarizes the procedures for the meetings and methods by which interested persons may participate in open public hearings before FDA's advisory committees.

MEETINGS: The following advisory committee meetings are announced:

General Hospital and Personal Use Devices Panel

Date, time and place. October 5 and 6, 1987, 9 a.m., Rm. 703A, Hubert H. Humphrey Bldg., 200 Independence Avenue SW., Washington, DC.

Type of meeting and contact person. Open public hearing, October 5, 1987, 9 a.m. to 10 a.m.; open committee discussion, 10 a.m. to 12 m.; closed presentation of data, 1 p.m. to 2 p.m.; closed committee deliberations, 2 p.m. to 2:30 p.m.; open committee discussion 2:30 p.m. to 4 p.m.; October 6, 1987, 9 a.m. to 10 a.m.; open committee discussion, 10 a.m. to 12 m.; closed presentation of data, 1 p.m. to 2 p.m.; closed committee deliberations, 2 p.m. to 2:30 p.m.; open committee discussion 2:30 p.m. to 4 p.m.; Andrea A. Wargo, Center for Devices and Radiological Health (HFZ-420), Food and Drug Administration, 8757 Georgia Ave., Silver Spring, MD 20910, 301-427-7750.

General function of the committee. The committee reviews and evaluates available data on the safety and effectiveness of devices and makes recommendations for their regulation.

Agenda—Open public hearing. Interested persons may present data, information, or views, orally or in writing, on issues pending before the committee. Those desiring to make formal presentations should notify the contact person before September 25, 1987, and submit a brief statement of the general nature of the evidence or arguments they wish to present, the names and addresses of proposed participants, and an indication of the approximate time required to make their comments.

Open committee discussion. The committee will discuss safety and effectiveness data for a long term percutaneous intraspinal catheter and for a programmable implantable infusion pump for intraspinal morphine.

Closed presentation of data. Trade secret and/or confidential commercial information will be presented to the committee regarding materials and manufacturing information for the long term percutaneous intraspinal catheter; and materials, design, computer software, and manufacturing information for the infusion pump. This portion of the meeting will be closed to permit discussion of this information (5 U.S.C. 552b(c)(4)).

Closed committee deliberations. The committee will discuss trade secret and/or confidential commercial information on materials and design of the long term percutaneous intraspinal catheter; and materials, design, computer software, and manufacturing information regarding the infusion pump. This portion of the meeting will be closed to permit discussion of this information (5 U.S.C. 552b(c)(4)).

Ophthalmic Devices Panel

Date, time, and place. October 22 and 23, 1987, 9 a.m., Auditorium, Hubert H. Humphrey Bldg., 200 Independence Ave., SW., Washington, DC.

Type of meeting and contact person. Open public hearing, October 22, 1987, 9 a.m. to 10 a.m.; open committee discussion, 10 a.m. to 3 p.m.; closed committee deliberations, 3 p.m. to 4 p.m.; open public hearing, October 23, 1987, 9 a.m. to 10 a.m.; open committee discussion, 10 a.m. to 3 p.m.; closed committee deliberations, 3 p.m. to 4 p.m.; open committee discussion, 4 p.m. to 5 p.m.; Richard E. Lippman, Center for Devices and Radiological Health (HFZ-460), Food and Drug Administration, 8757 Georgia Ave., Silver Spring, MD 20910, 301-427-7320.

General function of the committee. The committee reviews and evaluates available data on the safety and effectiveness of devices currently in use and makes recommendations for their regulation. The committee also reviews data on new devices and makes recommendations regarding their safety and effectiveness and their suitability for marketing.

Agenda—Open public hearing. Interested persons may present data, information, or views, orally or in writing, on issues pending before the committee. Those desiring to make formal presentations should notify the contact person before October 1, 1987, and submit a brief statement of the general nature of the evidence or arguments they wish to present, the names and addresses of proposed participants, and an indication of the approximate time required to make their comments.

Open committee discussion. On October 22, 1987, the committee will discuss general issues relating to approvals of premarket approval applications (PMA's) for Nd:YAG lasers and intraocular lenses (IOL's), and may discuss specific PMA's for these devices. If discussion of all pertinent Nd:YAG laser or IOL issues is not completed, discussion will be continued the following day. On October 23, 1987, the committee will discuss general ophthalmic issues and PMA's for contact lenses and other devices and requirements for PMA approval.

Closed committee deliberation. On October 22 and 23, 1987, the committee may discuss trade secret and/or confidential commercial information relevant to PMA's for IOL's, Nd:YAG lasers, contact lenses, or other ophthalmic devices. This portion of the meeting will be closed to permit discussion of this information (5 U.S.C. 552b(C)(4)).

Veterinary Medicine Advisory Committee

Date, time, and place. October 27 and 28, 1987, 8 a.m., conference room E, Parklawn Bldg., 5600 Fishers Lane, Rockville, MD.

Type of Meeting and contact person. Closed committee deliberations, October 27, 1987, 8 a.m. to 10:45 a.m.; open committee discussion; 10:45 a.m. to 2 p.m.; open public hearing, 2 p.m. to 2:45 p.m., unless public participation does not last that long; open committee discussion, 2:45 p.m. to 4:30 p.m.; October 28, 1987, 8 a.m. to 8:30 a.m.; open public hearing, 8:30 a.m. to 9 a.m.; open committee discussion, 9 a.m. to 11:30 a.m.; Max L. Crandall, Center for Veterinary Medicine (HFV-4), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-3450.

General function of the committee. The committee reviews and evaluates available data on the safety and effectiveness of marketed and investigational new animal drugs, feeds, and devices for use in the treatment and prevention of animal diseases and increased animal production.

Agenda—Open public hearing. Interested persons requesting to present data, information, or views, orally or in writing, on issues pending before the committee should communicate with the committee contact person.

Open committee discussion. The committee will discuss the following: (1) Model veterinary drug code, (2) classification and labeling of Rx and OTC Products, (3) residues and sulfamethazine, and (4) drug listing and adverse drug reactions reporting systems.

Closed committee deliberations. The committee will review and discuss trade secret and/or confidential commercial information relevant to pending new animal drug applications (NADA's) and investigational new animal drugs (INAD's). This portion of the meeting will be closed to permit discussion of this information (5 U.S.C. 552b(c)(4)).

Each public advisory committee meeting listed above may have as many as four separable portions: (1) An open public hearing, (2) an open committee discussion, (3) a closed presentation of data, and (4) a closed committee deliberation. Every advisory committee meeting shall have an open public hearing portion. Whether or not it also includes any of the other three portions will depend upon the specific meeting involved. The dates and times reserved for the separate portions of each committee meeting are listed above.

The open public hearing portion of each meeting shall be at least 1 hour long unless public participaton does not last that long. It is emphasized, however, that the 1 hour time limit for an open public hearing represents a minimum rather than a maximum time for public participation, and an open public hearing may last for whatever longer period the committee chairperson determines will facilitate the committee's work.

Public hearings are subject to FDA's guideline (Subpart C of 21 CFR Part 10) concerning the policy and procedures for electronic media coverage of FDA's public administrative proceedings, including hearings before public advisory committees under 21 CFR Part 14. Under 21 CFR 10.205, representatives of the electronic media may be permitted, subject to certain limitations, to videotape, film, or otherwise record FDA's public administrative proceedings, including presentations by participants.

Meetings of advisory committees shall be conducted, insofar as is practical, in accordance with the agenda published in this **Federal Register** notice. Changes in the agenda will be announced at the beginning of the open portion of a meeting.

Any interested person who wishes to be assured of the right to make an oral presentation at the open public hearing portion of a meeting shall inform the contact person listed above, either orally or in writing, prior to the meeting. Any person attending the hearing who does not in advance of the meeting request an opportunity to speak will be allowed to make an oral presentation at the hearing's conclusion, if time permits, at the chairperson's discretion.

Persons interested in specific agenda items to be discussed in open session may ascertain from the contact person the approximate time of discussion.

Details on the agenda, questions to be addressed by the committee, and a current list of committee members are available from the contact person before and after the meeting. Transcripts of the open portion of the meeting will be available from the Freedom of Information Office (HFI-35), Food and Drug Administration, Rm. 12A-16, 5600 Fishers Lane, Rockville, MD 20857, approximately 15 working days after the meeting, at a cost of 10 cents per page. The transcript may be viewed at the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857, approximately 15 working days after the meeting, between the hours of 9 a.m. and 4 p.m., Monday through Friday.

Summary minutes of the open portion of the meeting will be available from the Freedom of Information Office (address above) beginning approximately 90 days after the meeting.

The Commissioner, with the concurrence of the Chief Counsel, has determined for the reasons stated that those portions of the advisory committee meetings so designated in this notice shall be closed. The Federal Advisory Committee Act (FACA), as amended by the Government in the Sunshine Act (Pub. L. 94-409), permits such closed advisory committee meetings in certain circumstances. Those portions of a meeting designated as closed, however, shall be closed for the shortest possible time, consistent with the intent of the cited statutes.

The FACA, as amended, provides that a portion of a meeting may be closed where the matter for discussion involves a trade secret; commercial or financial information that is privileged or confidential; information of a personal nature, disclosure of which would be a clearly unwarranted invasion of personal privacy; investigatory files compiled for law enforcement purposes; information the premature disclosure of which would be likely to significantly frustrate implementation of a proposed agency action; and information in certain other instances not generally relevant to FDA matters.

Examples of portions of FDA advisory committee meetings that ordinarily may be closed, where necessary and in accordance with FACA criteria, include the review, discussion, and evaluation of drafts of regulations or guidelines or similar preexisting internal agency documents, but only if their premature disclosure is likely to significantly frustrate implementation of proposed agency action; review of trade secrets and confidential commercial or financial information submitted to the agency; consideration of matters involving investigatory files compiled for law enforcement purposes; and review of matters, such as personnel records or individual patient records, where disclosure would constitute a clearly unwarranted invasion of personal privacy.

Examples of portions of FDA advisory committee meetings that ordinarily shall not be closed include the review, discussion, and evaluation of general preclinical and clinical test protocols and procedures for a class of drugs or devices; consideration of labeling requirements for a class of marketed drugs or devices; review of data and information on specific investigational or marketed drugs and devices that have previously been made public; presentation of any other data or information that is not exempt from public disclosure pursuant to the FACA, as amended; and, notably deliberative sessions to formulate advice and recommendations to the agency on matters that do not independently justify closing.

This notice is issued under section 10(a) (1) and (2) of the Federal Advisory Committee Act (Pub. L. 92-463, 86 Stat. 770-776 (5 U.S.C. App. I)), and FDA's regulations (21 CFR Part 14) on advisory committees.

Dated: September 11, 1987.

John A. Norris,

Acting Commissioner of Food and Drugs.

[FR Doc. 87-21559 Filed 9-17-87; 8:45 am]

BILLING CODE 4160-01-M

Advisory Committee Meeting Cancellation

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is canceling the meeting of the Circulatory System Devices Panel scheduled for September 25, 1987. The meeting was announced by notice in the **Federal Register** of August 17, 1987 (52 FR 30738).

FOR FURTHER INFORMATION CONTACT: Keith Lusted, Center for Devices and Radiological Health (HFZ-450), Food and Drug Administration, 8757 Georgia Ave., Silver Spring, MD 20910, 301-427-7594.

Dated: September 14, 1987.

Richard J. Davis,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 87-21595 Filed 9-15-87; 3:29 pm]

BILLING CODE 4160-01-M

Advisory Committee; Amendment of Notice

AGENCY: Food and Drug Administration.

ACTION: Notice; amendment.

SUMMARY: The Food and Drug Administration (FDA) is amending an advisory committee meeting notice of the Clinical Chemistry and Clinical Toxicology Devices Panel to reflect changes in the type of meeting on September 22, 1987, and in the open committee discussion. As a result of these changes, there will not be a closed session on September 22, 1987. Notice of the September 21 and 22, 1987, meetings was published in the **Federal Register** of August 17, 1987 (52 FR 30738).

SUPPLEMENTARY INFORMATION: In FR Doc. 87-18669, appearing at page 30738 in the **Federal Register** of Monday, August 17, 1987, the following corrections are made under the heading, "Clinical Chemistry and Clinical Toxicology Devices Panel" beginning in the third column:

(1) On page 30738, third column, lines 8-14 of the *Type of meeting and contact person* paragraph, the type of meeting scheduled for September 22, 1987, is revised to read as follows:

Type of meeting and contact person. * * * ; open public hearing, September 22, 1987, 9 a.m. to 10 a.m.; open committee discussion, 10 a.m. to 12 m.; open presentation of data, 1 p.m. to 3 p.m. when adjournment is scheduled; * * *

(2) On page 30739, first column, the *Open committee discussion* paragraph is revised to read as follows:

Open committee discussion. The committee will discuss one premarket approval application: a histochemical assay designed to detect estrogen binding cancer cells in human breast cancer.

Dated: September 14, 1987.

Richard J. Davis,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 87-27596 Filed 9-15-87; 8:45 am]

BILLING CODE 4160-01-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[AK-963-4213-15]

Native Primary Place of Residence in Alaska; Evan Ignatti et al.

In accordance with Departmental regulation 43 CFR 2650.7(d), notice is hereby given that decisions to issue conveyance under the provisions of section 14(h)(5) of the Alaska Native Claims Settlement Act of December 18, 1971, 43 U.S.C. 1601, 1613(h)(5), will be issued to Evan Ignatti, Nastatia Moxie, Ignaty Ignatti, and Evan Nick. The lands involved are in the vicinity of Sleetmute, Alaska.

A previous notice of decisions to issue conveyance to the named claimants was published in the **Federal Register** on July 24, 1987. Due to special circumstances, the decisions could not be issued in time to allow a sufficient appeal period.

Serial number	Land description	Approximate acreage
Evan Ignatti, AA-9013.	T. 9 N., R. 48 W., Seward Meridian Sec. 20.	85 acres.

Serial number	Land description	Approximate acreage
Nastatia Moxie, F-19736.	T. 12 N., R. 47 W., Seward Meridian, Sec. 35.	65 acres.
Ignaty Ignatti, F-19737.	T. 9 N., R. 48 W., Seward Meridian, Sec. 20.	53 acres.
Evan Nick, F-19738.	T. 12 N., R. 47 W., Seward Meridian, Sec. 25.	96 acres.

A notice of the decisions will be published once a week, for four (4) consecutive weeks, in The Tundra Drums. Copies of the decisions may be obtained by contacting the Bureau of Land Management, Alaska State Office, 701 C Street, Box 13, Anchorage, Alaska 99513 ((907) 271-5960).

Any party claiming a property interest which is adversely affected by the decisions, an agency of the Federal government, or regional corporation, shall have until October 19, 1987, to file an appeal. However, parties receiving service by certified mail shall have 30 days from the date of receipt to file an appeal. Appeals must be filed in the Bureau of Land Management, Division of Conveyance Management (960), address identified above, where the requirements for filing an appeal may be obtained. Parties who do not file an appeal in accordance with the requirements of 43 CFR Part 4, Subpart E, shall be deemed to have waived their rights.

Ann Johnson,

Chief, Branch of Calista Adjudication.

[FR Doc. 87-21659 Filed 9-17-87; 8:45 am]

BILLING CODE 4310-JA-M

[NM-016-07-4410-08]

Availability of Proposed Farmington Resource Management Plan/Final Environmental Impact Statement (RMP-EIS)

AGENCY: Bureau of Land Management (BLM), Albuquerque District, Farmington Resource Area, Farmington, New Mexico.

ACTION: Notice of availability.

SUMMARY: The BLM announces the availability of the Proposed Farmington RMP/Final EIS for public review. This document analyzes the management options and impacts of allocating lands and resources on about 1.5 million acres of public land surface and 3.0 million acres of Federal mineral estate. These public lands are located in San Juan, Rio Arriba, Mckinley and Sandoval Counties in northwest New Mexico.

The Draft RMP/EIS was made available for a 90-day public comment period from March through June 1987. Comments received were incorporated in the preparation of the Proposed Plan. All parts of the Proposed Plan may be protested.

DATE: Protests on the Proposed Plan must be postmarked no later than October 26, 1987.

ADDRESS: Protests must be sent to the Director (760), Bureau of Land Management, Premier Bldg., Room 909, 18th and C Streets NW., Washington, DC 20240.

SUPPLEMENTARY INFORMATION: Any person who is on record for participating in the planning process and has an interest that is or may be affected by approval of the RMP may file a protest. Protests should be presented to the BLM Director with the following information: (1) Name, mailing address, telephone number, and interest of the person filing the protest; (2) statement of the issue or issues being protested; (3) a statement of the part or parts being protested; (4) a copy of all documents addressing the issue or issues that were submitted during the planning process by the protesting party or an indication of the date the issue or issues were discussed for the records; and (5) a concise statement explaining why the BLM New Mexico State Director's decision is wrong.

At the end of the 30-day protest period, the Proposed Plan, excluding any portions under protest, will become final. Approval will be withheld on any portion of the plan under protest until final action has been completed on such protest. The approval process and the Approved Plan will be published with the Record of Decision. Individuals not wishing to protest the plan, but wanting to comment, may send comments to the BLM, Farmington Resource Area, at the address below. All comments received will be considered in preparation of the Record of Decision.

FOR FURTHER INFORMATION CONTRACT: Bill Overbaugh, RMP Team Leader, Farington Resource Area, Caller Service 4104, Farmington, New Mexico 87499, or telephone (505) 325-3581

A limited number of documents are available, and review copies may be examined at:

BLM State Office, Joseph M. Montoya Federal Bldg., Santa Fe, New Mexico
BLM Farmington Resource Area, 900 La Plata Highway, Farmington, New Mexico
San Juan College Library, 4601 College Blvd., Farmington, New Mexico
University of New Mexico, School of Law Library, 1117 Stanford, NE., Albuquerque, New Mexico
BLM DSC Library, Building 50, Denver Federal Center, Denver, Colorado
BLM Albuquerque District Office, 435 Montano Road, NE., Albuquerque, New Mexico
Aztec Public Library, 201 W. Chaco, Aztec, New Mexico
State of New Mexico, 325 Don Gaspar, Santa Fe, New Mexico
Farmington Public Library, 100 W. Broadway, Farmington, New Mexico

Dated: September 14, 1987.

Monte G. Jordan,

Associate State Director.

[FR Doc. 87-21555 Filed 9-17-87; 8:45 am]

BILLING CODE 4310-FB-M

[NV-930-07-4332-09; FES 87-38]

Availability of Final Environmental Impact Statement for Schell Resource Area Wilderness, Ely District, NV

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of availability of final Environmental Impact Statement (EIS) on the wilderness recommendations for the Schell Resource Area, Ely District, Nevada.

SUMMARY: This EIS assesses the environmental consequences of managing eight wilderness study ares (WSA's) as wilderness or nonwilderness. The alternatives analyzed included: (1) A No Wilderness/No Action alternative for each WSA, (2) an All Wilderness alternative for each WSA, and (3) Partial Wilderness alternatives for six of the WSA's.

The names of the WSA's analyzed in the EIS, their total acreage, and the proposed action for each are as follows:

WSA	Acres suitable	Acres nonsuitable
Mount Grafton WSA	30,115	43,101
Far South Egans WSA	42,316	10,908
Fortification Range WSA	0	41,615
Table Mountain WSA	0	35,958
White Rock Range WSA	23,625	0
Parsnip Peak WSA	53,560	34,615
Worthington Mountains WSA	26,587	21,046
Weepah Spring WSA	50,499	10,638
Total	226,702	197,881

The Bureau of Land Management wilderness proposals will ultimately be forwarded by the Secretary of the Interior to the President and from the President to the Congress. The final decision on wilderness designation rests with Congress. In any case, no final decision on these proposals can be made by the Secretary during the 30 days following the filing of this EIS. This complies with the Council on Environmental Quality Regulations, 40 CFR 1506.10B(2).

SUPPLEMENTARY INFORMATION: A limited number of individual copies of the EIS

may be ontained from the Area Manager, Schell Resource Area, Star Route 5, Box 1, Ely, Nevada, 89301, or call (702) 289–4865. Copies are also available for inspection at the following locations:

Department of the Interior, Bureau of Land Management, 18th and C Street NW., Washington, DC 20240

Bureau of Land Management, Nevada State Office, 850 Harvard Way, P.O. Box 12000, Reno, NV 89520

Bureau of Land Management, Ely District, Star Route 5, Box 1, Ely, NV 89301

FOR FURTHER INFORMATION CONTACT: Shaaron Netherton, EIS Team Leader, at Star Route 5, Box 1, Ely District, Ely, Nevada, 89301.

Dated: September 10, 1987.

Bruce Blanchard,

Director, Office of Environmental Projects Review.

[FR Doc. 87–21309 Filed 9–17–87; 8:45 am]

BILLING CODE 4310–HC–M

[NV–040–07–4212–14; N–37052]

Realty Action; Noncompetitive Land Sale, White Pine County, Nevada; Ely District Schell Resource Area

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of realty action. Noncompetitive land sale, White Pine County.

SUMMARY: This Notice is Realty Action (NORA) supersedes the NORA Published in the **Federal Register** on March 4, 1983, in Vol. 48 No. 44, page 9380.

The following land has been examined and identified for disposal by sale under section 203 of the Federal Land Policy and Management Act of 1976 (90 Stat. 2750; 43 U.S.C. 1713):

Mount Diablo Meridian

T. 2 N., R. 69 E.
Sec. 35, SW¼NW¼NE¼SE¼.

The above-described land, comprising 2.5 acres, is being offered by direct sale to Timothy Olson at the current fair market value.

The lands are being offered as a direct, noncompetitive sale to Timothy Olson, the owner of the adjoining tract and improvements on the sale tract. The first cadastral survey of this area was performed in 1872. There were a number of errors in this original survey. The location of the private land in Ursine was established from the survey. In 1970 it was discovered the survey was inaccurate and in 1973 the area was resurveyed.

Mr. Olson found that with the change in the new survey the house he owned was partially on public land. Disposal by direct sale to Mr. Olson will legalize his occupancy of the land, protect his equity investment in the improvements on the land, and resolve a complicated unauthorized use situation.

The lands have not been used and are not required for any federal purpose. Disposal would best serve the public interest. The sale is consistent with the Bureau's planning system. The land will not be offered for sale for at least 60 days after the date of this notice.

There will be no reduction of AUM's from the grazing allotment due to this action.

Detailed information concerning this action is available for review at the office of the Bureau of Land Management, Ely District, Ely, Nevada.

Upon publication of this notice in the **Federal Register**, the above described land will be segregated from all forms of appropriation under the public land laws, including the general mining laws, except for recreation and public purposes and leasing under the mineral leasing laws.

Patent, when issued, will contain the following reservations to the United States:

1. A right-of-way thereon for ditches and canals constructed by the authority of the United States, Act of August 30, 1890, 26 Stat. 391; 43 U.S.C. 945.

2. All mineral deposits in the lands so patented, and to it, or persons authorized by it, the right to prospect, mine, and remove such deposits from the same under applicable law and such regulations as the Secretary of the Interior may prescribe.

Conveyance of the available mineral estate having no known mineral value will occur simultaneously with the sale of the lands under section 209 of the aforementioned Act of 1976. Acceptance of the direct sale offer will constitute an application for conveyance of those mineral estates. A $50 nonrefundable fee for the available mineral estates must accompany the purchase money. In addition, the costs of publishing this notice in the **Federal Register** and in the local newspaper must be paid by the purchaser before patent may be issued. Failure to submit the purchase money for the land, the aforementioned filing fee, and the publishing costs within the timeframe specified by the authorized officer (43 CFR 2710.0–5(c)), shall result in cancellation of the sale.

Detailed information concerning the sale is available for review at the Ely District Office, Bureau of Land Management, Star Route 5, Box 1, Ely, Nevada 89301. For a period of 45 days from the date of publication in the **Federal Register**, interested parties may submit comments to the Ely District Manager, Star Route 5, Box 1, Ely, Nevada 89301. Any adverse comments will be evaluated by the State Director, who may vacate or modify this realty action and issue a final determination. If no action is taken by the State Director, this realty action will become a final determination of the Department of the Interior.

DATE: September 10, 1987.

ADDRESS: Comments and suggestions should be sent to: Bureau of Land Management, Star Route 5, Box 1, Ely, Nevada 89301.

FOR FURTHER INFORMATION CONTACT: David L. Redmond, (702) 289–4865.

Date: September 9, 1987.

Kenneth G. Walker,

District Manager.

[FR Doc. 87–21660 Filed 9–17–87; 8:45 am]

BILLING CODE 4310–HC–M

Fish and Wildlife Service

Endangered Species Permit Issued for the Months of April, May, and June 1987

Notice is hereby given that the U.S. Fish and Wildlife Service has taken the following action with regard to permit applications duly received according to section 10 of the Endangered Species Act of 1973, as amended, 16 U.S.C. 1539. Each permit listed as issued was granted only after it was determined that it was applied for in good faith, that by granting the permit it will not be to the disadvantage of the endangered species; and that it will be consistent with the purposes and policy set forth in the Endangered Species Act of 1973, as amended.

Additional information on these permit actions may be requested by contacting the Federal Wildlife Permit Office, 1000 North Glebe Road, Room 611, Arlington, Virginia 22201, telephone (703/235–1903) between the hours of 7:45 a.m. to 4:15 p.m. weekdays.

April 1987:

Gibbon & Gallinaceous Bird Center	715693	04/01/87
Henry Doorly Zoo	715691	04/01/87
New York Zoological Society	714273	04/03/87
Steurer, Donald R.	715479	04/06/87
Wood Family Shows	711457	04/08/87
Exotic Cats of Georgia, Inc.	713584	04/09/87
Taylor, George Kelly	715828	04/20/87
Frank Todd Sea World, Inc.	716347	04/20/87

Memphis Zoo & Aquarium	714959	04/22/87
Adventure World	715460	04/22/87
Columbus Zoo	715749	04/22/87
Harris, Roger	711637	04/22/87
Harris, James C.	716609	04/24/87
May 1987:		
U.S. Fish & Wildlife Service	702631	05/04/87
Rickards, Ginger VA.	712134	05/04/87
Webb, Carl Jr.	715429	05/06/87
New York Zoological Society	715930	05/06/87
New York Zoological Society	718191	05/08/87
AAZPA (SRT)	716136	05/08/87
National Zoological Park	716519	05/11/87
Fortier, Robert Fredrick	719941	05/12/87
San Francisco Zoological Garden	717177	05/12/87
Florida State Museum	716310	05/12/87
Rosenbrough, Jimmie	690379	05/25/87
Walker, Susan R.	716524	05/25/87
June 1987:		
Frank Buck Bring 'Em Back Alive, Inc.	716947	06/02/87
San Antonio Zoo Garden & Aquarium	717813	06/11/87
San Diego Zoo	717784	06/11/87
The Cousteau Society Inc.	716284	06/11/87

Dated: September 15, 1987.

R.K. Robinson, Chief,

Branch of Permits, Federal Wildlife Permit Office.

[FR Doc. 87-21655 Filed 9-17-87; 8:45 am]

BILLING CODE 4310-55-M

National Park Service

Aniakchak National Monument Resource Commission; Meeting

AGENCY: National Park Service, Alaska Region, Interior.

ACTION: Subsistence Resource Commission Meeting.

SUMMARY: The Alaska Regional Office of the National Park Service announces a forthcoming meeting of the Aniakchak National Monument Subsistence Resource Commission. The following agenda items will be discussed:

(1) Call to order
(2) Introduction of guests
(3) Review and discuss input on draft recommendation
(4) Finalize recommendation
(5) Research data needs
(6) Status of previous recommendations
(7) Old business
(8) New business
(9) Adjourn

DATE: The meeting will begin at 9:00 a.m. on October 14, 1987, and conclude the afternoon of October 15, 1987.

ADDRESS: The meeting will be held at the Fish and Wildlife Service, Conference Room, King Salmon, Alaska.

FOR FURTHER INFORMATION CONTACT: Ray Bane, Superintendent, Aniakchak National Monument, P.O. Box 7, King Salmon, Alaska 99613, Phone (907) 246-3305.

SUPPLEMENTARY INFORMATION: The Aniakchak National Monument Subsistence Resource Commission is authorized under Title VIII, section 808, of the Alaska National Interest Lands Conservation Act Pub. L. 96-487.

Dated: September 8, 1987.

Boyd Evison,

Regional Director, Alaska.

[FR Doc. 87-21569 Filed 9-17-87; 8:45 am]

BILLING CODE 4310-70-M

INTERSTATE COMMERCE COMMISSION

[Finance Docket No. 31106]

The Chesapeake and Ohio Railway Co. and CSX Transportation, Inc., Merger Exemption; Exemption

Decided: September 10, 1987.

CSX Corporation (CSX), The Chesapeake and Ohio Railway Company (C&O), and CSX Transportation, Inc. (CSXT) have filed a notice of exemption for C&O to merge into CSXT on August 31, 1987. The merger participants are part of the CSX system and have been commonly controlled and managed since 1980. *See CSX Corp.—Control—Chessie and Seaboard C.L.I.*, 363 I.C.C. 518 (1980).

CSX owns 100 percent of the voting equity securities of C&O and CSXT. This merger is a further step in an overall process of consolidating the CSX rail companies into a single, efficient operating company. Consummation of the merger will eliminate the inefficiencies inherent in maintaining two carrier entities in areas such as record keeping and through coordination and consolidation will improve the efficiency of the operations and services presently being provided by the carriers as separate entities.

Under the merger plan, C&O will cease to exist as a separate entity and CSXT will succeed to all of its rights, assets, liabilities, and obligations. All outstanding shares of C&O common stock will be cancelled, and all outstanding shares of C&O preferred stock will be converted into preferred stock of CSXT.

This merger is a transaction within a corporate family of the type specifically exempted from prior approval under 49 CFR 1180.2(d)(3). It is a transaction which will not result in adverse changes in service levels, significant operational changes, or a change in the competitive balance with carriers outside the corporate family.

To ensure that all employees who may be affected by the transaction are given the minimum protection afforded under sections 10505(g)(2) and 11347, the labor conditions set forth in *New York Dock Ry.—Control—Brooklyn Eastern Dist.*, 360 I.C.C. 60 (1979), will be imposed.[1]

Petitions to revoke this exemption under 49 U.S.C. 10505(d) may be filed at any time. The filing of a petition to revoke will not stay the transaction. Pleadings must be filed with the Commission and served on: Peter J. Shudtz, One James Center, Richmond, VA 23219.

By the Commission, Jane F. Mackall, Director, Office of Proceedings.

Kathleen King,

Acting Secretary.

[FR Doc. 87-21576 Filed 9-17-87; 8:45 am]

BILLING CODE 7035-01-M

[Finance Docket No. 31051]

The Shore Fast Line, Inc., Operation, NJDOT "Winslow Branch" Rail Properties; Modified Rail Certificate

September 14, 1987.

On May 21, 1987, The Shore Fast Line, Inc. (Shore), filed a notice for a modified certificate of public convenience and necessity under 49 CFR Part 1150, Subpart C. As of May 12, 1987, it is authorized to provide service over the Southern Branch ("Winslow Branch") formerly owned by Consolidated Rail Corporation (Conrail) between milepost 114.3 at Buena Vista and milepost 103.6 at Winslow Township, NJ, a distance of approximately 10.7 miles.

Conrail abandoned the line after being issued a certificate in Docket No. AB-167 (Sub-No. 611N), *Conrail Abandonment in Camden, Gloucester, and Atlantic Counties, NJ* (not printed), served August 2, 1984. Subsequently, the New Jersey Department of Transportation (NJDOT) purchased the line from Conrail. Shore will operate the line pursuant to an agreement with NJDOT for a period of 10 years from May 12, 1987.[1]

[1] The Railway Labor Executives' Association (RLEA) filed a request for labor protection. Since this transaction involves an exemption from 49 U.S.C. 11343, imposition of the labor protection condition is mandatory and has been imposed above.

[1] The agreement initially provided that the 10-year period starts on October 1, 1986. By a

Continued

This notice shall be served on the Association of American Railroads (Car Service Division) as agent of all railroads subscribing to the car-service and car-hire agreement, and upon the American Short Line Railroad Association.

By the Commission, Jane F. Mackall, Director, Office of Proceedings.

Noreta R. McGee,

Secretary.

[FR Doc. 87-21577 Filed 9-17-87; 8:45 am]

BILLING CODE 7035-01-M

[No. MC-F-18505]

GLI Acquisition Co., Purchase of Trailways Lines, Inc.; GLI Acquisition Co., Control of Continental Panhandle Lines, Inc.

AGENCY: Interstate Commerce Commission.

ACTION: Extension of time to file replies.

SUMMARY: Notice of the filing of this application was published on July 17, 1987, in the **Federal Register** at 52 FR 27068, and in the *ICC Register.* The due date for comments in opposition to the application was set as August 31, 1987, and the due date for replies in support of the application was set as September 22, 1987. Pursuant to applicants' request, the time for filing replies has been extended until October 7, 1987.

DATE: Replies in support of this application may be filed on or before October 7, 1987.

ADDRESSES: Send replies (an original and 20 copies), referring to Docket No. MC-F-18505, to: Office of the Secretary, Case Control Branch, Interstate Commerce Commission, Washington, DC 20423.

FOR FURTHER INFORMATION CONTACT:

Andrew L. Lyon, (202) 275-7291

or

Warren C. Wood, (202) 275-7977

TDD for hearing impaired: (202) 275-1721

Decided: September 15, 1987.

By the Commission, Heather J. Gradison, Chairman.

Noreta R. McGee,

Secretary.

[FR Doc. 87-21746 Filed 9-17-87; 8:45 am]

BILLING CODE 7035-01-M

subsequent letter, counsel for Shore clarified that the 10-year period runs from May 12, 1987.

[Finance Docket No. 31094]

Grainbelt Corp., Exemption Acquisition and Operation of Certain Lines of Burlington Northern Railroad Co

Grainbelt Corporation (Grainbelt) has filed a notice of exemption to acquire and operate 186.4 miles of line of Burlington Northern Railroad Company (BN) from Enid, OK (milepost 588.3) to Davidson, OK (milepost 774.7). BN has also agreed to grant Grainbelt incidental overhead trackage rights over that portion of BN's line of railroad from Snyder, OK (milepost 664.0) to Quanah, TX (milepost 723.3), a distance of 59.3 miles, for interchange purposes. Any comments must be filed with the Commission and served on William P. Quinn, Rubin, Quinn & Moss, 1800 Penn Mutual Tower, 510 Walnut Street, Philadelphia, PA 19106.

The notice is filed under 49 CFR 1150.31. If the notice contains false or misleading information, the exemption is void *ab initio.* Petitions to revoke the exemption under 49 U.S.C. 10505(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the transaction.[1]

This decision will not significantly affect the quality of the human environment or energy conservation.

Decided: September 14, 1987.

By the Commission, Jane F. Mackall, Director, Office of Proceedings.

Noreta R. McGee,

Secretary.

[FR Doc. 87-21747 Filed 9-17-87; 8:45 am]

BILLING CODE 7035-01-M

[1] By decision entered September 9, 1987, the Commission considered a petition for stay filed by the Attorney General of Oklahoma as well as a number of letters filed by affected individuals. In that decision, that petition and those letters were treated as petitions to revoke the exemption, and were denied.

DEPARTMENT OF JUSTICE

Antitrust Division

Notice Pursuant to the National Cooperative Research Act of 1984, the Importance of Lubricating Oil in Diesel Particulate Emissions (Southwest Research Institute)

Notice is hereby given that, pursuant to section 6(a) of the National Cooperative Research Act of 1984, 15 U.S.C. 4301 *et seq.*, Southwest Research Institute ("SwRI") has filed a written notification simultaneously with the Attorney General and the Federal Trade Commission of a project entitled: "The Importance of Lubricating Oil in Diesel Particulate Emissions." The notification discloses (1) the identities of the parties to the project and (2) the nature and objective of the project. The notification was filed for the purpose of invoking the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Pursuant to Section 6(b) of the Act, the identities of the parties to the project and its general areas of planned activities are given below.

The parties to the project are:

Ethyl Petroleum additives, Inc.
Daimler-Benz
Lubrizol Corporation
Isuzu Technical Center of America
Fiat Research Center
Mitsubishi Motors Corporation
Navistar International Corporation
Texaco, Inc.
Euron, S.p.A
Nippon Schokubai Kagaku Kogyo Co., Ltd.

The purpose of the project is to determine quantitatively and qualitatively the contribution of lubricating oil to diesel particulate emissions, and the impact of this contribution on efforts to reduce engine-out particulates as needed to meet upcoming particulate standards. The study will contain four objectives. The four objectives are to: (1) Evaluate methodology capable of identifying the lubricating oil contributions to both the organic-soluble and insoluble portions of the total particulate, (2) determine the effects of engine design and operating parameters on oil-related particulate emissions, (3) study the effects of engine condition (wear) and oil formulations, and (4) assess the interaction of aftertreatment devices with oil-derived particulate.

Membership in this group research project remains open.

Joseph H. Widmar,

Director of Operations Antitrust Division.

[FR Doc. 87-21586 Filed 9-17-87; 8:45 am]

BILLING CODE 4410-01-M

Office of Juvenile Justice and Delinquency Prevention

Meeting of State Advisory Group Chairs

AGENCY: Office of Juvenile Justice and Delinquency Prevention, Justice.

ACTION: Notice of Advisory Committee Meeting.

SUMMARY: This notice sets forth the schedule for the forthcoming meeting of the State Advisory Groups. Notice of the

meeting is required by the Federal Advisory Committee Act.

DATE: Monday, September 28, 1987, 1:30 p.m.—6:00 p.m. (The meeting may be continued to the following morning, September 29, for the purpose of concluding Advisory Committee business.)

ADDRESS: Holiday Inn—Capitol, 550 C Street, SW., Washington, DC 20024.

SUPPLEMENTARY INFORMATION: The State Advisory Groups, an advisory committee established pursuant to section 3(2)(A) of the Federal Advisory Committee Act (5 U.S.C. App. 2) will meet to carry out its advisory functions under section 241(f)(3) and (4) of the Juvenile Justice and Delinquency Prevention Act of 1974, as amended.

These sessions which will be open to the public, are scheduled at the above listed dates and times.

Time constraints precluded publishing the Notice 15 days prior to the meeting, as required. To delay the meeting for the purpose of allowing 15 days would not be in the best interest of the advisory committee; because the agenda has been set, meeting space has been secured, and participants have made travel arrangements.

FOR FURTHER INFORMATION CONTACT: For information please contact Roberta Dorn, Office of Juvenile Justice and Delinquency Prevention, U.S. Department of Justice, Washington, DC 20531, (202) 724-7655.

Diane M. Munson,

Deputy Administrator, Office of Juvenile and Delinquency Prevention.

Date: September 16, 1987.

[FR Doc. 87-21752 Filed 9-17-87; 8:45 am]

BILLING CODE 4410-18-M

DEPARTMENT OF LABOR

Employment Standards Administration, Wage and Hour Division

Minimum Wages for Federal and Federally Assisted Construction; General Wage Determination Decisions

General wage determination decisions of the Secretary of Labor are issued in accordance with applicable law and are based on the information obtained by the Department of Labor from its study of local wage conditions and data made available from other sources. They specify the basic hourly wage rates and fringe benefits which are determined to be prevailing for the described classes of laborers and mechanics employed on construction projects of a similar character and in the localities specified therein.

The determinations in these decisions of prevailing rates and fringe benefits have been made in accordance with 29 CFR Part 1, by authority of the Secretary of Labor pursuant to the provisions of the Davis-Bacon Act of March 3, 1931, as amended (46 Stat. 1494, as amended, 40 U.S.C. 276a) and of other Federal statutes referred to in 29 CFR Part 1, Appendix, as well as such additional statutes as may from time to time be enacted containing provisions for the payment of wages determined to be prevailing by the Secretary of Labor in accordance with the Davis-Bacon Act. The prevailing rates and fringe benefits determined in these decisions shall, in accordance with the provisions of the foregoing statutes, constitute the minimum wages payable on Federal and federally assisted construction projects to laborers and mechanics of the specified classes engaged on contract work of the character and in the localities described therein.

Good cause is hereby found for not utilizing notice and public procedure thereon prior to the issuance of these determinations as prescribed in 5 U.S.C. 553 and not providing for delay in the effective date as prescribed in that section, because the necessity to issue current construction industry wage determinations frequently and in large volume causes procedures to be impractical and contrary to the public interest.

General wage determination decisions, and modifications and supersedeas decisions thereto, contain no expiration dates and are effective from their date of notice in the **Federal Register**, or on the date written notice is received by the agency, whichever is earlier. These decisions are to be used in accordance with the provisions of 29 CFR Parts 1 and 5. Accordingly, the applicable decision, together with any modifications issued, must be made a part of every contract for performance of the described work within the geographic area indicated as required by an applicable Federal prevailing wage law and 29 CFR Part 5. The wage rates and fringe benefits, notice of which is published herein, and which are contained in the Government Printing Office (GPO) document entitled "General Wage Determinations Issued Under The Davis-Bacon And Related Acts," shall be the minimum paid by contractors and subcontractors to laborers and mechanics.

Any person, organization, or governmental agency having an interest in the rates determined as prevailing is encouraged to submit wage rate and fringe benefit information for consideration by the Department. Further information and self-explanatory forms for the purpose of submitting this data may be obtained by writing to the U.S. Department of Labor, Employment Standards Administration, Wage and Hour Division, Division of Wage Determinations, 200 Constitution Avenue NW., Room S-3504, Washington, DC 20210.

Modifications to General Wage Determination Decisions

The numbers of the decisions listed in the Government Printing Office document entitled "General Wage Determinations Issued Under the Davis-Bacon and Related Acts" being modified are listed by Volume, State, and page number(s). Dates of publication in the **Federal Register** are in parentheses following the decisions being modified.

Volume I:

District of Columbia:
DC87-1 (January 2, 1987)..... pp. 86, 88, pp. 92, 94.

Maryland:
MD87-4 (January 2, 1987)..... pp. 426-426a.

Volume II:

Kansas:
KS87-6 (January 2, 1987)..... p. 348.

Texas:
TX87-10 (January 2, 1987).... pp. 946-947.

Volume III:

None.

General Wage Determination Publication

General wage determinations issued under the Davis-Bacon and Related Acts, including those noted above, may be found in the Government Printing Office (GPO) document entitled "General Wage Determinations Issued Under The Davis-Bacon And Related Acts". This publication is available at each of the 50 Regional Government Depository Libraries and many of the 1,400 Government Depository Libraries across the County. Subscriptions may be purchased from: Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402, (202) 783-3238.

When ordering subscription(s), be sure to specify the State(s) of interest, since subscriptions may be ordered for any or all of the three separate volumes, arranged by State. Subscriptions include an annual edition (issued on or about January 1) which includes all current general wage determinations for the States covered by each volume. Throughout the remainder of the year, regular weekly updates will be distributed to subscribers.

Signed at Washington, DC, this 14th day of September 1987.

Alan L. Moss,

Director, Division of Wage Determinations.

[FR Doc. 87-21502 Filed 9-17-87; 8:45 am]

BILLING CODE 4510-27-M

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

Design Arts Advisory Panel to the National Council on the Arts;

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), as amended, notice is hereby given that a meeting of the Design Arts Advisory Panel (Challenge III/ Advancement Section) to the National Council on the Arts will be held on October 5-6, 1987 from 9:00 a.m.-5:30 p.m. in room M-14 of the Nancy Hanks Center, 1100 Pennsylvania Avenue NW., Washington, DC 20506.

A portion of this meeting will be open to the public on October 6, 1987 from 4:30 p.m.-5:30 p.m. The topics for discussion will include guidelines and policy issues.

The remaining sessions of this meeting on October 5, 1987 from 9:00 a.m.-5:30 p.m. and on October 6, 1987 from 9:00 a.m.-4:30 p.m. are for the purpose of application review. In accordance with the determination of the Chairman published in the **Federal Register** of February 13, 1980, these sessions will be closed to the public pursuant to subsection (c)(4), (6) and (9)(B) of section 552b of Title 5, United States Code.

If you need special accommodations due to a disability, please contact the Office for Special Constituencies, National Endowment for the Arts, 1100 Pennsylvania Avenue NW., Washington DC 20506, 202/682-5532, TTY 202/682-5496 at least seven (7) days prior to the meeting.

Further information with reference to this meeting can be obtained from Ms. Yvonne M. Sabine, Advisory Committee Management Officer, National Endowment for the Arts, Washington, DC 20506, or call 202/682-5433.

Yvonne M. Sabine,

Acting Director, Council and Panel Operations, National Endowment for the Arts.

September 14, 1987.

[FR Doc. 87-21661 Filed 9-17-87; 8:45 am]

BILLING CODE 7537-01-M

Literature Advisory Panel to the National Council on the Arts; Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), as amended, notice is hereby given that a meeting of the Literature Advisory Panel (Creative Writing Fellowships—Prose Section) to the National Council on the Arts will be held on October 8-9, 1987 from 9:00 a.m.-5:30 p.m. and on October 10, 1987, from 9:00-2:00 p.m. in room 714 of the Nancy Hanks Center, 1100 Pennsylvania Avenue NW., Washington, DC 20506.

A portion of this meeting will be open to the public on October 10, 1987 from 12:00 noon-2:00 p.m. The topics for discussion will include guidelines and policy issues.

The remaining sessions of this meeting on October 8-9, 1987 from 9:00 a.m.-5:30 p.m. and on October 10, 1987 from 9:00 a.m.-12:00 noon are for the purpose of application review. In accordance with the determination of the Chairman published in the **Federal Register** of February 13, 1980, these sessions will be closed to the public pursuant to subsections (c)(4), (6) and (9)(B) of section 552b of Title 5, United States Code.

If you need special accommodations due to a disability, please contact the Office for Special Constituencies, National Endowment for the Arts, 1100 Pennsylvania Avenue NW., Washington DC 20506, 202/682-5532, TTY 202/682-5496 at least seven (7) days prior to the meeting.

Further information with reference to this meeting can be obtained from Ms. Yvonne M. Sabine, Advisory Committee Management Officer, National Endowment for the Arts, Washington, DC 20506, or call 202/682-5433.

Yvonne M. Sabine,

Acting Director, Council and Panel Operations, National Endowment for the Arts.

September 14, 1987.

[FR Doc. 87-21662 Filed 9-17-87; 8:45 am]

BILLING CODE 7537-01-M

Music Advisory Panel to the National Council on the Arts; Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), as amended, notice is hereby given that a meeting of the Music Advisory Panel (Opera-Musical Theater Challenge III Section) to the National Council on the Arts will be held on October 7, 1987, from 9:00 a.m.-5:30 p.m. in room 730 of the Nancy Hanks Center, 1100 Pennsylvania Avenue, NW., Washington, DC 20506.

This meeting is for the purpose of Panel review, discussion, evaluation, and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including discussion of information given in confidence to the Agency by grant applicants. In accordance with the determination of the Chairman published in the **Federal Register** of February 13, 1980, these sessions will be closed to the public pursuant to subsections (c)(4), (6) and (9)(B) of section 552b of Title 5, United States Code.

Further information with reference to this meeting can be obtained from Ms. Yvonne M. Sabine, Advisory Committee Management Officer, National Endowment for the Arts, Washington, DC 20506, or call (202) 682-5433.

Yvonne M. Sabine,

Acting Director, Council and Panel Operations, National Endowment for the Arts.

September 14, 1987.

[FR Doc. 87-21663 Filed 9-17-87; 8:45 am]

BILLING CODE 7537-01-M

NUCLEAR REGULATORY COMMISSION

Advisory Committee on Reactor Safeguards Subcommittee on Standardization of Nuclear Facilities; Meeting

The ACRS Subcommittee on Standardization of Nuclear Facilities will hold a meeting on October 6, 1987, Room 1046, 1717 H Street NW., Washington, DC.

The entire meeting will be open to public attendance.

The agenda for subject meeting shall be as follows:

Tuesday, October 6, 1987-8:30 A.M. until the conclusion of business

The Subcommittee will review the Staff SER and Chapter I of the EPRI Requirements document.

Oral statements may be presented by members of the public with the concurrence of the Subcommittee Chairman; written statements will be accepted and made available to the Committee. Recordings will be permitted only during those portions of the meeting when a transcript is being kept, and questions may be asked only by members of the Subcommittee, its consultants, and Staff. Persons desiring to make oral statements should notify the ACRS staff member named below as far in advance as is practicable so that appropriate arrangements can be made.

During the initial portion of the meeting, the Subcommittee, along with any of its consultants who may be present, may exchange preliminary views regarding matters to be

considered during the balance of the meeting.

The Subcommittee will then hear presentations by and hold discussions with representatives of the NRC Staff, its consultants, and other interested persons regarding this review.

Further information regarding topics to be discussed, whether the meeting has been cancelled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefor can be obtained by a prepaid telephone call to the cognizant ACRS staff members, Mr. Elpidio Igne or Mr. Herman Alderman (telephone 202/634-1413) between 8:15 A.M. and 5:00 P.M. Persons planning to attend this meeting are urged to contact the above named individual one or two days before the scheduled meeting to be advised of any changes in schedule, etc., which may have occurred.

Date: September 14, 1987.

Morton W. Libarkin,

Assistant Executive Director for Project Review.

[FR Doc. 87-21613 Filed 9-17-87; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-213]

Availability of the Draft Integrated Safety Assessment Report; Connecticut Yankee Atomic Power Co. Haddam Neck Plant

The Nuclear Regulatory Commission's (NRC) Office of Nuclear Reactor Regulation has published its Draft Integrated Safety Assessment Report (ISAR) (NUREG-1185) related to the Connecticut Yankee Atomic Power Company's (licensee) Haddam Neck Plant, located in Middlesex County, Connecticut.

The Integrated Safety Assessment Program (ISAP) was initiated by the NRC to conduct integrated assessments for operating reactors to establish integrated implementation schedules. This report documents the review of the Haddam Neck Plant, which is one of two plants being reviewed under the pilot program for ISAP. This report indicates how 82 topics selected for review were addressed and presents the staff's recommendations regarding the corrective actions to resolve the 82 topics and other actions to enhance plant safety. The report is being issued in draft form to obtain comments from the licensee, nuclear safety experts, and the Advisory Committee for Reactor Safeguards. Once those comments have been resolved, the staff will present its positions, along with a long-term implementation schedule from the licensee, in the final version of this report.

A free single copy of draft NUREG-1185, to the extent of supply, may be obtained by writing to the Distribution Section, Document Control Branch, Division of Information Support Service, U.S. Nuclear Regulatory Commission, Washington, DC 20555. A copy is also available for inspection and/or copying for a fee in the NRC Public Document Room, 1717 H Street NW., Washington, DC 20555.

Dated at Bethesda, Maryland, this 18th day of August 1987.

For the Nuclear Regulatory Commission.

Cecil O. Thomas,

Director Integrated Safety Assessment Project Directorate, Division of PWR Licensing-B, Office of Nuclear Reactor Regulation.

[FR Doc. 87-21610 Filed 9-17-87; 8:45 am]

BILLING CODE 7590-01-M

PRESIDENT'S COMMISSION ON PRIVATIZATION

Meeting

SUMMARY: Pursuant to section 10(a) of the Federal Advisory Committee Act (Pub. L. 92-463), as amended, notice is hereby given that a meeting of the President's Commission on Privatization will be held.

DATE: September 18, 1987, from 11:00 a.m.-1:00 p.m.

ADDRESS: Room 476 of the Old Executive Office Building, 17th and Pennsylvania Avenue, NW., Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Wiley Horsely, Commission Staff Manager, temporary at the Department of the Interior, 18th and C Streets, NW., Washington, DC 20240, 202/343-3347.

SUPPLEMENTARY INFORMATION: The purpose of this meeting is for the Commission members to be briefed by the Chairman and Administration officials on the purpose and charter of the Commission and the scope of its required activities. The briefing will include a summary and overview of the general opportunities and obstacles confronting the Federal government in extending the scope of privatization. The meeting will be open to the public up to the seating capacity of the room (approximately 40 persons including committee members). Places will be allocated on a first call, first served basis. All persons who wish to attend the meeting must call 395-6116 by September 18 for clearance into the building.

James C. Miller, III,

Director, Office of Management and Budget.

[FR Doc. 87-21775 Filed 9-17-87; 10:34 am]

BILLING CODE 3110-01-M

SECURITIES AND EXCHANGE COMMISSION

[File No. 270-36]

Forms Under Review By Office of Management and Budget Extension of Rule 17f-2(d)

Agency Clearance Officer: Kenneth A. Fogash (202) 272-2142.

Upon Written Request Copy Available from: Securities and Exchange Commission, Office of Consumer Affairs, 450 Fifth Street NW., Washington, DC 20549.

Notice is hereby given that, pursuant to the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*), the Securities and Exchange Commission has submitted for extension of OMB approval Rule 17f-2(d) (17 CFR 240.17f-2(d)) under the Securities Exchange Act of 1934 (15 U.S.C. 78 *et seq.*), which generally requires covered entities or their designated examining authorities to keep fingerprint cards (or microfilm copies) together with criminal histories (if any) returned by the FBI to the entities. A total of 9,500 respondents produce an annual total of 8,024 burden hours in complying with Rule 17f-2(d).

Submit comments to OMB Desk Officer: Mr. Robert Neal, (202) 395-7340, Office of Information and Regulatory Affairs, Office of Management and Budget, Room 3228 NEOB, Washington, DC 20503.

Jonathan G. Katz,

Secretary.

September 15, 1987.

[FR Doc. 87-21574 Filed 9-17-87; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-24918; File No. SR-NYSE-87-20]

Self-Regulatory Organizations; Order Granting Partial Accelerated Approval to Proposed Rule Change by the New York Stock Exchange Relating to Amendments to Rule 124 To Modify Pricing Procedures for Standard Odd-Lot Market Orders

The New York Stock Exchange, Inc. ("NYSE") submitted, on July 13, 1987, copies of a proposed rule change pursuant to section 19(b) of the Securities Exchange Act of 1934

("Act") [1] and Rule 19b-4 thereunder [2] to amend NYSE Rule 124 to modify its pricing procedures for standard odd-lot market orders. Under current rules, standard odd-lot market orders are executed at a price based on the next NYSE round-lot sale after the order has been received in the system designated to process such orders. The proposal would amend this pricing procedure by permitting standard odd-lot orders to be executed at a price based on the prevailing NYSE quote in the stock at the time the orders reache the system designated to process these orders. Under the proposal, no commission would be charged on standard odd-lot market orders. The proposal would also change the present system for pricing and reporting odd-lot orders from the Automated Pricing and Reporting System (APARS) to the NYSE's Limit System.

On August 27, 1987, the Commission received an amendment to the filing, requesting partial accelerated approval to permit the Exchange to implement, for testing purposes, the new odd-lot pricing system at one Exchange specialist post.[3] The NYSE has stated that such a preliminary testing period needs to be completed prior to the major expansion that will occur, contingent upon Commission approval, within the next few months.

Notice of the proposal was given by the issuance of a Commission release (Securities Exchange Act Release No. 24783, August 7, 1987) and by publication in the **Federal Register** (52 FR 30474, August 14, 1987). No comments were received regarding the proposal.

The Commission has examined carefully the request of the NYSE, and has determined that there is good cause for approving the preliminary portion of the NYSE filing prior to the thirtieth day after the date of publication of the notice. Although the Commission has not made a final determination on all aspects of the NYSE's proposed rule, it is relying on both the satisfactory completion of a pilot program utilizing the proposed odd-lot pricing system for AT&T divestiture issues,[4] and the absence of any negative comments, on that pilot and the current proposal, in permitting the NYSE to commence testing the program prior to the thirtieth day. The Commission finds that the proposal for partial accelerated approval is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange, in that it should facilitate the execution of odd-lot transactions, should the Commission grant final approval, for the benefit of investors and the public interest. The Commission therefore is approving the implementation of the proposed odd-lot pricing system on the single NYSE post until such time that the Commission reaches a final determination on the entirety of the rule filing.

It is therefore ordered, pursuant to section 19(b)(2) of the Act, that the proposal be, and hereby is, approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Jonathan G. Katz,

Secretary.

Dated: September 14, 1987.

[FR Doc. 87-21575 Filed 9-17-87; 8:45 am]

BILLING CODE 8010-01-M

[1] 15 U.S.C. 78s(b).

[2] 17 CFR 240.19b-4 (1986).

[3] *See* letter from Anne E. Allen, Vice President, NYSE, to Howard Kramer, Assistant Director, Division of Market Regulation, SEC, dated August 26, 1987. The letter noted that the Exchange wants first to implement the system for the forty-six securities traded by Agora Securities, Inc., to be followed by implementing the system for that entire post (Post No. 5). This initial phase would encompass 112 stocks, and would be completed prior to full implementation of the system.

See Securities Exchange Act Release No. 20400 (November 18, 1983), 48 FR 53627.

[Release No. IC-15794 (File No. 812-6759)]

Andelsbanken A/S and Andelsbanken Danebank Finance Inc.; Application

Date: September 11, 1987.

AGENCY: Securities and Exchange Commission ("SEC").

ACTION: Notice of application for exemption under the Investment Company Act of 1940 ("1940 Act").

Applicants: Andelsbanken A/S ("Bank") and Andelsbanken Danebank Finance Inc. ("Company").

Relevant 1940 Act Sections: Exemption requested pursuant to Section 6(c) from all provisions.

Summary of Application: Applicant seek an order permitting them to issue and sell their respective debt securities in the United States.

Filing Dates: The application was filed on June 12, 1987, and amended on August 26, 1987.

Hearing or Notification of Hearing: If no hearing is ordered, the requested exemption will be granted. Any interested person may request a hearing on this application, or ask to be notified if a hearing is ordered. Any requests must be received by the SEC by 5:30 p.m. on October 1, 1987. Request a hearing in writing, giving the nature of your interest, the reason for the request, and the issues you contest. Serve the Applicants with the request, either personally or by mail, and also send it to the Secretary of the SEC, along with proof of service by affidavit or, in the case of an attorney-at-law, by certificate. Request notification of the date of a hearing by writing to the Secretary of the SEC.

ADDRESSES: Secretary, SEC, 450 5th Street NW., Washington, DC 20549. Applicants, c/o Jonathan Birenbaum, Esq., Mudge Rose Guthrie Alexander & Ferdon, 180 Maiden Lane, New York, NY 10038.

FOR FURTHER INFORMATION CONTACT: Thomas C. Mira, Staff Attorney (202) 272-3033, or Brion R. Thompson, Special Counsel (202) 272-3016 (Office of Investment Company Regulation).

SUPPLEMENTARY INFORMATION: Following is a summary of the application; the complete application is available for a fee from either the SEC's Public Reference Branch in person or the SEC's commercial copier at (800) 231-3282 (in Maryland (301) 258-4300).

Applicants' Representations

1. The Bank is a Danish commercial bank which at December 31, 1986, ranked as the fifth largest commercial bank in Denmark on the basis of assets. As a commercial bank, it is regulated under the Danish Commercial Banks and Savings Bank Act of 1974, which regulates the capital, use of funds and liquidity of commercial banks in Denmark. The Bank's principal business is the receipt of deposits and the making of loans. The Bank has a long tradition in international banking and plays an active role in the international activities of a growing number of corporate and institutional customers.

2. The Company was incorporated under the laws of the State of Delaware on March 10, 1987. At the time of any issuance of the Company's debt securities, and so long as any such securities are outstanding, the Company will be a directly or indirectly wholly-owned subsidiary of the Bank. The Company's sole business will be the issuance of debt obligations unconditionally guaranteed by the Bank and the distribution of substantially all of the proceeds thereof to the Bank or other directly or indirectly wholly-owned subsidiaries of the Bank. Substantially all the Company's assets will consist of the right to receive repayment from the Bank and such subsidiaries arising from the distribution of such proceeds.

3. Applicants presently propose to issue and offer for sale in the United

States short-term prime quality negotiable promissory notes denominated in United States dollars of the type generally referred to as commercial paper ("Notes"). The Notes will be sold in minimum denominations of $100,000, will have maturities not exceeding nine months, exclusive of days of grace, and will neither be payable on demand prior to maturity nor subject to automatic "rollover". The Notes will be (i) issued directly by the Bank, (ii) issued by the Company and unconditionally guaranteed by the Bank, or (iii) some combination of (i) and (ii).

4. Applicants represent that if the Notes are issued by the Bank, they will be the direct liabilities of the Bank, will rank pari passu among themselves and equally with all deposit liabilities and all other unsecured, unsubordinated indebtedness of the Bank and prior to claims of holders of the Bank's common stock. If the Notes are issued by the Company and guaranteed by the Bank, the Notes will rank pari passu among themselves and equally with all other unsecured, unsubordinated indebtedness of the Company, and prior to the claims of holders of the Company's common stock, and the Bank's guarantee on the Notes will rank equally with all deposit liabilities and all other unsecured, unsubordinated indebtedness of the Bank and prior to the claims of holders of the Bank's common stock. The Bank's guarantee on any Notes issued by the Company will be unconditional and irrevocable and will apply to all amounts due in respect of the Notes. Thus, holders of the Notes could be considered holders of the Bank's debt securities.

5. The terms of the Notes and the use of the proceeds from the sale thereof will qualify the Notes for the exemption from registration afforded by Section 3(a)(3) of the Securities Act of 1933 ("1933 Act"). Applicants will not issue and sell any Notes until receiving an opinion of their special United States legal counsel to the effect that, under the circumstances of the proposed offering, the Notes will be entitled to such exemption. The Applicants do not request SEC review or approval of such counsel's opinion regarding the availability of that exemption.

6. Prior to issuance of the Notes or any other debt securities in the future, the Notes or such other debt securities shall have received one of the three highest investment grade ratings from at least one nationally recognized statistical rating organization and Applicants' special United States legal counsel shall have certified that such a rating has been received; however, no such rating shall be required if, in the opinion of such counsel (having taken into account the doctrine of "integration" referred to in Rule 502 of Regulation D under the 1933 Act and various "no-action" letters made publicly available by the SEC), an exemption from registration is available pursuant to section 4(2) of the 1933 Act.

7. The Notes will be issued and sold to a commercial paper dealer or dealers (each, a "Dealer") in the United States which will reoffer the Notes to investors. The Notes will not be advertised or otherwise offered for sale to the general public, but instead will be sold by each Dealer only to institutional investors and other entities that normally purchase commercial paper.

8. Although not presently intended, Applicants may, from time to time, issue and offer debt securities other than the Notes ("Future Securities") for sale in the United States. Any such offerings would be made only pursuant to a registration statement filed under the 1933 Act, or pursuant to an applicable exemption from such registration provided Applicants have received an opinion of United States legal counsel or a "no-action" letter issued by the staff of the SEC to the effect that the proposed offering may be made pursuant to such exemption. If such securities are registered under the 1933 Act, Applicants will not sell such securities until the registration statement pertaining thereto has been declared effective by the SEC.

9. Prior to issuance of any Notes or Future Securities, the Bank will expressly accept the jurisdiction of any State or Federal court in the Borough of Manhattan in the City and State of New York in respect of any legal proceedings based upon the Notes or Future Securities or the Bank's guarantee thereon, and will also appoint an authorized agent in New York, New York to accept service of process on behalf of the Bank in respect of any such action. Such consent to jurisdiction and such appointment of an authorized agent to accept service of process will be irrevocable until all amounts due and to become due with respect to the Notes or Future Securities have been paid in full.

Applicants' Legal Conclusion

1. Applicants contend that it is impractical and unnecessary to regulate either of them under the 1940 Act. Specifically, Applicants believe that the Bank is clearly engaged in the commercial banking business and not in the business of investing, reinvesting, or trading securities, and that the Company should not be regulated under the 1940 Act because it will serve merely as a financing conduit for the Bank. Accordingly, Applicants submit that the requested exemption is appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the 1940 Act.

Applicants' Conditions

1. Applicants undertake to ensure that each Dealer will provide each offeree of the Notes in the United States with a memorandum ("Offering Memorandum") briefly describing the business of the Bank, in the case of Notes issued by the Bank, and the business of both the Bank and the Company, in the case of Notes issued by the Company and guaranteed by the Bank. Applicants undertake that each Offering Memorandum will also include the most recent annual audited financial statements of the Bank, together with a brief description of the material differences betwen the Danish accounting principals utilized in the preparation of the Bank's financial statements and generally accepted accounting principles as applied in the United States. Applicants additionally undertake that the Offering Memorandum will be at least as comprehensive as those customarily used in offering commercial paper offerings in the United States and will be updated promptly to reflect material changes in the financial condition of the Applicants.

2. Any offering of Future Securities will be made on the basis of appropriate disclosure documents which are at least as comprehensive as those used in connection with the proposed issuance of the Notes and in no event less comprehensive than those customarily used in offerings of similar securities in the United States.

For the SEC, by the Division of Investment Management, pursuant to delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 87-21572 Filed 9-17-87; 8:45 am]

BILLING CODE 8010-01-M

[Rel. No. IC-15977; (812-6803)]

Benham Target Maturities Trust and Capital Preservation Fund, Inc.; Application

Date: September 14, 1987.

AGENCY: Securities and Exchange Commission ("SEC").

ACTION: Notice of application for exemption and approval under the Investment Company Act of 1940 ("1940 Act").

Applicants: Benham Target Maturities Trust ("Target Fund") and Capital Preservation Fund, Inc. ("Money Market Fund").

Relevant 1940 Act Sections: Exemption requested pursuant to sections 6(c) and 17(b) from the provisions of sections 17(a)(1) and (2) and approval sought under section 17(d) and Rule 17d–1.

Summary of Application: Applicants seek an order to permit the Money Market Fund to sell its shares to, and redeem its shares from, the existing and future series of the Target Fund, and to permit Benham Management Corporation, as adviser to the Money Market Fund and the Target Fund, to effect such purchases and sales of shares of the Money Market Fund by the Target Fund.

Filing Dates: The application was filed on July 24, 1987, and amended on September 1, 1987.

Hearing or Notification of Hearing: If no hearing is ordered, the application will be granted. Any interested person may request a hearing on this application, or ask to be notified if a hearing is ordered. Any requests must be received by the SEC by 5:30 p.m., on October 9, 1987. Request a hearing in writing, giving the nature of your interest, the reason for the request, and the issues you contest. Serve the Applicants with the request, either personally or by mail, and also send it to the Secretary of the SEC, along with proof of service by affidavit, or, for attorneys, by certificate. Request notification of the date of a hearing by writing to the Secretary of the SEC.

ADDRESSES: Secretary, SEC. 450 Fifth Street NW., Washington, DC 20549. Applicants, c/o Jeffrey L. Steele, Esq., Dechert Price & Rhoads, 1730 Pennsylvania Avenue NW., Washington, DC 20006.

FOR FURTHER INFORMATION CONTACT: Thomas C. Mira, Staff Attorney (202) 272–3033, or Brion R. Thompson, Special Counsel (202) 272–3016 (Office of Investment Company Regulation).

SUPPLEMENTARY INFORMATION: Following is a summary of the application; the complete application is available for a fee from either the SEC's Public Reference Branch in person or the SEC's commercial copier which may be contacted at (800) 231–3282 (in Maryland (301) 258–4300).

Applicants' Representations

1. The Target Fund and the Money Market Fund are registerd under the 1940 Act as open-end, diversified, management investment companies. The Target Fund is a series fund currently consisting of six series ("Series"). Applicants' investment adviser is Benham Management Corporation ("BMC"), a wholly-owned subsidiary of Benham Management International. Applicants request that the order sought hereby extend to any subsequently created Series of Applicants and in connection therewith, undertake that such prospective relief will be availed of only upon the terms and conditions set forth in the application.

2. The Money Market Fund invests solely in short-term U.S. Treasury debt securities guaranteed by the direct "full faith and credit" pledge of the United States and is designed as a cash reserve investment vehicle. The Series of the Target Fund invest only in zero-coupon U.S. securities and in U.S. Treasury bills, notes and bonds. The Series of the Target Fund may have relatively small cash reserves emanating from a variety of sources, including interest received on portfolio securities, unsettled or "failed" securities transactions, cash arising from the liquidation of investment securities to meet anticipated redemptions, and new monies received from investors.

3. Applicants state that BMC will be in the best position to know at any given moment the cash reserves held by the Series of the Target Fund, to know the purpose and need for these reserves, and to make and implement decisions with respect to the investment of these reserves. Applicants further state that if the requested order is granted, BMC could immediately invest the Target Fund's uninvested monies into the Money Market Fund while considering the purchase of appropriate portfolio securities for the Series of the Target Fund. Applicants assert that if each Series were required to invest small cash balances directly in U.S. Treasury securities rather than purchasing shares of the Money Market Fund, each Series is likely to be adversely affected by increased transaction costs and reduced and lost investment opportunities. Applicants also state that the securities in which the Target Fund invests are normally unavailable in small lots and that it often proves impractical to invest small cash balances of the Series of the Target Fund.

4. Applicants represents that the proposed transactions will comply with the limitations set forth in section 12(d)(1) and will not result in layering of sales charges, advisory fees or administrative expenses. BMC will receive no additional advisory fee based on the proposed investments in the Money Fund because such investments will be removed from the base upon which the advisory fee for the Target Fund is calculated. Applicants further represent that Benham Financial Services, Inc., Applicants' administrative services company and transfer agent, will receive no additional fee based on the proposed investments in the Money Market Fund because such investments will be removed from the base upon which the administrative fee for the Target Fund is calculated. Applicants also note that the Money Market Fund does not impose a fee pursuant to a Rule 12b–1 plan. Applicants assert that because the Series of the Target Fund retain the freedom to invest cash assets directly in U.S. Treasury securities, there exists an independent check upon the investment of the Target Fund's assets in an investment which produces a non-competitive rate of return. Conversely, the Money Market Fund reserves the right to discontinue selling shares to the Series of the Target Fund if such sales adversely affect its portfolio management and operations.

Applicants' Legal Analysis

1. Applicants request an order pursuant to sections 6(c), 17(b) and 17(d) of the 1940 Act, and Rule 17d–1 thereunder, to permit the Money Market Fund to sell to, and redeem its shares from, the Series of the Target Fund and to permit BMC, as Applicants' investment adviser, to effect such purchases and sales of shares of the Money Market Fund by the Series of the Target Fund. Because the Money Market Fund and the Target Fund have a common investment adviser they may be deemed affiliated persons within the meaning of section 2(a)(3). Therefore, the issuance of Money Market Fund shares to Series of the Target Fund may be deemed a sale of securities to a registered investment company by an affiliated person of such company in violation of section 17(a)(1) of the 1940 Act. Conversely, the redemption by Money Market Fund of its share may be deemed a purchase of securities by a registered investmernt company from an affiliated person thereof, in violation of section 17(a)(2) of the 1940 Act. Finally, pursuant to section 17(d) of the 1940 Act and Rule 17d–1 thereunder, the contemplated transactions may be deemed a joint arrangement requiring prior SEC approval under Rule 17d–1.

2. Applicants submit that the proposed transactions satisfy the section 17(b) standard for exemption from section 17(a). In this regard, Applicants point out that the Money Market Fund will always sell to, and redeem from the Target Fund at net asset value, and all administrative and

management fees will be waived with respect to transactions involving the Target Fund. Thus, the consideration paid will ve fair and reasonable and no overreaching will occur. Moreover, the proposed affiliated transactions were approved by the Target Fund's shareholders thereby making the proposal consistent with the Target Fund's investment policies. Applicants also submit that the proposed transactions are consistent with the purposes of the 1940 Act.

3. Applicants contend that their proposal provides no basis on which to predict that either Applicant, or Series thereof, would receive greater benefits than another. Applicants represent that the Series will participate in the proposed transactions on the same basis, and thus, that neither Applicant will participate in a transaction on a basis "different from or less advantageous" than that of any other participant. Applicants note that although BMC as adviser, may experience nominal cost savings and administrative convenience, the most significant benefit is the elimination of the need to invest relatively small sums of money in cash instruments. Finally, Applicants contend that no conflict of interest exists between or among the Applicants or the respective Series, and that no inherent bias exists to favor one Applicant or Series thereof over another.

For the SEC, by the Division of Investment Management, pursuant to delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 87-21573 Filed 9-17-87; 8:45 am]

BILLING CODE 8010-01-M

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

[Order 87-9-35, Docket 40508]

Proposed Revocation of the Section 401 Certificate of Air Atlanta, Inc.

AGENCY: Department of Transportation, Office of the Secretary.

ACTION: Notice of order to show cause.

SUMMARY: The Department of Transportation is directing all interested persons to show cause why it should not issue an order revoking the certificate of Air Atlanta, Inc., issued under section 401 of the Federal Aviation Act.

DATE: Persons wishing to file objections should do so no later than September 30, 1987.

ADDRESS: Responses should be filed in Docket 40508 and addressed to the Documentary Services Division, Department of Transportation, 400 7th Street SW., Room 4107, Washington, DC, 20590, and should be served on the parties listed in Attachment A to the order.

FOR FURTHER INFORMATION CONTACT: Mary Catherine Terry, Air Carrier Fitness Division, P-56, U.S. Department of Transportation, 400 7th Street SW., Washington, DC 20590, (202) 366-2343.

Dated: September 15, 1987.

Philip W. Haseltine,

Deputy Assistant Secretary for Policy and International Affairs.

[FR Doc. 87-21651 Filed 9-17-87; 8:45 am]

BILLING CODE 4910-62-M

Applications for Certificates of Public Convenience and Necessity and Foreign Air Carrier Permits Filed Under Subpart Q During the Week Ended September 11, 1987

The following applications for certificates of public convenience and necessity and foreign air carrier permits were filed under Supbart Q of the Department of Transportation's Procedural Regulations (See 14 CFR 302.1701 et seq.). The due date for answers, conforming application, or motion to modify scope are set forth below for each application. Following the answer period DOT may process the application by expedited procedures. Such procedures may consist of the adoption of a show-cause order, a tentative order, or in appropriate cases a final order without further proceedings.

Docket No. 45127

Date Filed: September 8, 1987.

Due Date for Answers, Conforming Applications, or Motion to Modify Scope: October 6, 1987.

Description: Application of Pan Am Express, Inc. pursuant to section 401 of the Act and Subpart Q of the Regulations, requests a certificate of public convenience and necessity to engage in interstate and overseas scheduled air transportation of persons, property and mail.

Doclet No. 45130

Date Filed: September 8, 1987.

Due Date for Answers, Conforming Applications, or Motions to Modify Scope: October 6, 1987.

Description: Application of Continental Airlines, Inc. pursuant to section 401 of the Act and Subpart Q of the Regulations, for renewal of its certificate of public convenience and necessity for Route 368 authorizing foreign air transportation of persons, property and mail between Houston, Texas and Acapulco, Mexico.

Docket No. 45131

Date Filed: September 8, 1987.

Due Date for Answers, Conforming Applications, or Motions to Modify Scope: October 6, 1987.

Description: Application of Continental Airlines, Inc. pursuant to section 401 of the Act and Subpart Q of the Regulations, for renewal of its certificate of public convenience and necessity for Route 381, authorizing foreign air transportation of persons, property and mail between the coterminal points of New Orleans, Louisiana, Houston and Dallas/Ft. Worth, Texas and the coterminal points of Maracaibo and Caracas, Venezuela.

Docket No. 45134

Date Filed: September 11, 1987.

Due Date for Answers, Conforming Applications, or Motions to Modify Scope: October 9, 1987.

Description: Application of Soundair Corporation pursuant to section 402 of the Act and Subpart Q of the Regulations, requests a foreign air carrier permit to operate a class 9-2, International, Regular Specific Point, commercial air service to transport persons, goods and mail, using fixed wing aircraft between Toronto, Ontario, Canada, and the co-terminal points of Harrisburg/Allentown, Pennsylvania.

Docket No. 39959

Date Filed: September 11, 1987.

Due Date for Answers, Conforming Applications, or Motions to Modify Scope: October 9, 1987.

Description: Application of Hispaniola Airways, C. Por A., pursuant to section 402 of the Act and Subpart Q of the Regulations, requests renewal of its foreign air carrier permit authorizing the carriage of persons, property and mail in foreign air transportation over the following routes: Between Puerta Plata, Dominican Republic and the terminal point, Miami, Florida; Between Puerta Plata, Dominican Republic and the terminal point, San Juan, Puerto Rico; Between Puerta Plata, Dominican Republic and the terminal point, New York, New York.

Phyllis T. Kaylor,

Chief, Documentary Services Division.

[FR Doc. 87-21652 Filed 9-17-87; 8:45 am]

BILLING CODE 4910-62-M

Federal Aviation Administration

Advisory Circular on Circuit Protective Device Accessibility

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of availability of proposed advisory circular (AC) 25.1357–1, and request for comments.

SUMMARY: This notice announces the availability of an requests comments on a proposed advisory circular (AC) pertaining to circuit protective device accessibility. This notice is necessary to give all interested persons an opportunity to present their views on the proposed AC.

DATE: Comments must be received on or before January 18, 1988.

ADDRESS: Send all comments on the proposed AC to: Federal Aviation Administration, Attention: Transport Standards Staff, ANM–110, Northwest Mountain Region, 17900 Pacific Highway South, C–68966, Seattle, Washington 98168. Comments may be inspected at the above address between 7:30 a.m. and 4:00 p.m. weekdays, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Jan Thor, Transport Standards Staff, at the address above, telephone (206) 432–2127.

SUPPLEMENTARY INFORMATION:

Comments Invited

A copy of the draft AC may be obtained by contacting the person named above under **"FOR FURTHER INFORMATIOIN CONTACT."** Interested persons are invited to comment on the proposed AC by submitting such written data, views, or arguments, as they may desire. Commenters should identify AC 25.1357–1 and submit comments, in duplicate, to the address specified above. All communications received on or before the closing date for comments will be considered by the Transport Standards Staff before issuing the final AC.

Background

The proposed advisory circular (AC) sets forth two specific methods, either of which is considered to provide an acceptable means of compliance with the accessibility requirement of § 25.1357(d). This requirement provides that the circuit protective device(s) used for the power supply wire(s) for each load (system, subsystem, equipment, component, or part) that is essential to safety in flight be accesible so that the flightcrew can readily restore power following its automatic disconnection during flight. The two methods are provided for guidance purposes and as examples of methods that have been and would be found acceptable. Issued in Seattle Washington, on September 2, 1987.

Leroy A. Keith,

Manger, Aircraft Certification Division, ANM–100.

[FR Doc. 87–21648 Filed 9–17–87; 8:45 am]

BILLING CODE 4910–13–M

Approval of Noise Compatibility Program Revision; Hartsfield Atlanta International Airport, Atlanta, GA

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice.

SUMMARY: The FAA announces its findings on the noise compatibility program revision submitted by the City of Atlanta under the provisions of Title I of the Aviation Safety and Noise Abatement Act of 1979 (Pub. L. 96–193) and 14 CFR Part 150. These findings are made in recognition of the description of federal and non-Federal responsibilities in Senate Report No. 96–52 (1980). On October 16, 1984, the FAA determined that the noise exposure maps submitted by the City of Atlanta under Part 150 were in compliance with applicable requirements. On April 10, 1985, the Administrator approved the Hartsfield Atlanta International Airport noise compatibility program, and on June 25, 1987, the Administrator approved a revision to the noise compatibility program. No program elements relating to new or revised flight procedures for noise abatement were proposed by the airport operator in the original or revised noise compatibility program.

EFFECTIVE DATE: The effective date of the FAA's approval of the Hartsfield Atlanta International Airport noise compatibility program revision is June 25, 1987.

FOR FURTHER INFORMATION CONTACT: Charles V. Prouty, Program Manager, Atlanta Airports District Office, Suite 310, 3420 Norman Berry Drive, Hapeville, Georgia 30354, telephone (404) 763–7631. Documents reflecting this FAA action may be obtained from the same individual.

SUPPLEMENTARY INFORMATION: This notice announces that the FAA has given its overall approval to the noise compatibility program revision for Hartsfield Atlanta International Airport, effective June 25, 1987.

Under section 104(a) of the Aviation Safety and Noise Abatement Act of 1979 (hereinafter referred to as "the Act"), an airport operator who has previously submitted a noise exposure map may submit to the FAA a noise compatibility program which sets forth the measures taken or proposed by the airport operator for the reduction of existing noncompatible land uses and prevention of additional noncompatible land uses within the area covered by the noise exposure maps. The Act requires such programs to be developed in consultation with interested and affected parties, including local communities, government agencies, airport users, and FAA personnel.

Each airport noise compatibility program developed in accordance with the Federal Aviation Regulations (FAR) part 150 is a local program, not a Federal program. The FAA does not substitute its judgment for that of the airport proprietor with respect to which measures should be recommended for action. The FAA's approval or disapproval of FAR Part 150 program recommendations is measured according to the standards expressed in Part 150 and the Act and is limited to the following determinations:

a. The noise compatibility program, including revisions, was developed in accordance with the provisions and procedures of FAR Part 150;

b. Program measures are reasonably consistent with achieving the goals of reducing existing noncompatible land uses around the airport and preventing the introduction of additional noncompatible land uses;

c. Program measures would not create an undue burden on interstate or foreign commerce, unjustly discriminate against types or classes of aeronautical uses, violate the terms of airport grant agreements, or intrude into areas preempted by the Federal government; and

d. Program measures relating to the use of flight procedures can be implemented within the period covered by the program without derogating safety, adversely affecting the efficient use and management of the navigable airspace and air traffic control systems, or adversely affecting other powers and responsibilities of the Administrator prescribed by law.

Specific limitations with respect to FAA's approval of the airport noise compatibility program, including revisions, are delineated in FAR Part 150, § 150.5. Approval is not a determination concerning the acceptability of land uses under federal, state, or local law. Approval does not by itself constitute an FAA implementing action. A request for federal action or approval to implement specific noise

compatibility measures may be required, and an FAA decision on the request may require an environmental assessment of the proposed action. Approval does not constitute a commitment by the FAA to financially assist in the implementation of the program nor a determination that all measures covered by the program are eligible for grant-in-aid funding from the FAA under the Airport and Airway Improvement Act of 1982. Where federal funding is sought, requests for project grants must be submitted to the FAA Airports District Office in Atlanta, Georgia.

The City of Atlanta submitted to the FAA on June 19, 1984, the noise exposure maps, descriptions, and other documentation produced during the noise compatibility planning study conducted from 1982 through 1984. The Hartsfield Atlanta International Airport noise exposure maps were determined by FAA to be in compliance with applicable requirements on October 16, 1984. Notice of this determination was published in the **Federal Register** on October 29, 1984.

The revised Hartsfield Atlanta International Airport study contains a proposed noise compatibility program comprised of actions designed for phased implementation by airport management and adjacent jurisdictions from the date of study completion to the year 1987 and beyond. It was requested that the FAA evaluate and approve this material as a noise compatibility program revision as described in section 104(b) of the Act. The FAA began its review of the program revision on January 14, 1987, and was required by a provision of the Act to approve or disapprove the program revision within 180 days other than the use of new flight procedures for noise control. Failure to approve or disapprove such program revision within the 180-day period shall be deemed to be an approval of such revision.

The submitted program contained five proposed actions for noise mitigation, three of which were changed by the proposed program revision. The FAA completed its review and determined that the procedural and substantive requirements of the Act and FAR Part 150 have been satisfied. The overall program revision, therefore, was approved by the Administrator effective June 25, 1987.

Outright approval was granted for all proposed revisions to the specific program elements.

These determinations are set forth in detail in a Record of Approval endorsed by the Administrator on June 25, 1987. The Record of Approval, as well as other evaluation materials and the documents comprising the submittal, are available for review at the FAA office listed above and at the administrative offices of the Commissioner of Aviation, Hartsfield Atlanta International Airport.

Issued in Atlanta, Georgia, September 4, 1987.

Samuel F. Austin,

Manager, Atlanta Airports District Office.

[FR Doc. 87-21639 Filed 9-17-87; 8:45 am]

BILLING CODE 4910-13-M

Closing of Flight Service Station at Needles, CA

Notice is hereby given on or about August 28, 1987, the Flight Service Station at Needles, California, will be closed. Services to the general aviation public of Needles, formerly provided by this office, will be provided by the Flight Service Station in Riverside, California. This information will be reflected in the reissuance of the FAA Organization Statement.

Issued in Lawndale, California, on August 26, 1987.

(Sec. 313(a), 72 Stat. 752; 49 U.S.C. 1354)

Arlene B. Feldman,

Acting Director, Western-Pacific Region.

[FR Doc. 87-21649 Filed 9-17-87; 8:45 am]

BILLING CODE 4910-3-M

[Summary Notice No. PE-87-214]

Petitions for Exemption; Summary of Petitions Received and Dispositions of Petitions Issued

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of petitions for exemption received and of dispositions of prior petitions.

SUMMARY: Pursuant to FAA's rulemaking provisions governing the application, processing, and disposition of petitions for exemption (14 CFR Part 11), this notice contains a summary of certain petitions seeking relief from specified requirements of the Federal Aviation Regulations (14 CFR Chapter I), dispositions of certain petitions previously received, and corrections. The purpose of this notice is to improve the public's awareness of, and participation in, this aspect of FAA's regulatory activities. Neither publication of this notice nor the inclusion or omission of information in the summary is intended to affect the legal status of any petition or its final disposition.

DATE: Comments on petitions received must identify the petition docket number involved and must be received on or before: October 8, 1987.

ADDRESS: Send comments on any petition in triplicate to: Federal Aviation Administration, Office of the Chief Counsel, Attn: Rules Docket (AGC-204), Petition Docket No. ____, 800 Independence Avenue, SW., Washington, DC. 20591.

FOR FURTHER INFORMATION CONTACT: The petition, any comments received, and a copy of any final disposition are filed in the assigned regulatory docket and are available for examination in the Rules Docket (AGC-204), Room 915G, FAA Headquarters Building (FOB 10A), 800 Independence Avenue SW., Washington, DC 20591; telephone (202) 267-3132.

This notice is published pursuant to paragraphs (c), (e), and (g) of § 11.27 of Part 11 of the Federal Aviation Regulations (14 CFR Part 11).

Issued in Washington, DC, on September 10, 1987.

Denise D. Hall,

Acting Manager, Program Management Staff.

PETITIONS FOR EXEMPTION

Docket No.	Petitioner	Regulations affected	Description of relief sought
25344	General Electric	14 CFR 145.73	To allow petitioner to perform maintenance, preventive maintenance and alterations on components of CF6-6, CF6-50, CF6-80, and CFM56 engines utilized in U.S.-registered aircraft without regard to the geographic scope of their operations.
25314	Basler Flight Service, Inc	14 CFR 121.343, 121.359, and 121.360	To allow petitioner to operate turbine-engine-powered DC-3 cargo aircraft without the equipment required by these regulations. *Denied, September 1, 1987.*

PETITIONS FOR EXEMPTION—Continued

Docket No.	Petitioner	Regulations affected	Description of relief sought
15590	Embry-Riddle Aeronautical University	14 CFR Part 141, Appendices A, C, D, F, and H.	To allow petitioner to continue to graduate students after they have been trained to a performance standard instead of requiring minimum total flight time. This exemption does not allow reduction of the minimum solo cross-country flight time of Part 141. *Granted, August 31, 1987.*
12638	Air Transport Association of America	14 CFR 121.99 and 121.351(a)	To allow petitioner to operate turbojet airplanes on certain routes between certain New York oceanic control area reporting points and San Juan, Puerto Rico, with one of two installed high frequency communications systems inoperative at the time of departure and without maintaining two-way radio communications between each airplane and dispatch office along the named routes, subject to certain conditions. *Granted, August 27, 1987.*
25122	Wings West Airlines, Inc	14 CFR 135.181(a)(2)	To allow petitioner to operate its Swearingen SA 227AC Metro III airplanes under instrument flight rules or visual flight rules over the top and permit an alternate means of compliance with the performance requirements and the use of procedures for compliance with the en route limitations. *Granted, September 2, 1987.*
24819	United Airlines	14 CFR Part 121, Appendix H	To allow petitioner the continued use of its Interim Simulator Upgrade Plan to permit Phase II training and checking in a Phase I L-1011-500 simulator under an approved Phase IIA training program and to extend the termination date of United Airlines Interim Simulator Upgrade Plan to December 31, 1987. *Rescinded, September 2, 1987.*

[FR Doc. 87-21647 Filed 9-17-87; 8:45 am]
BILLING CODE 4910-13-M

National Highway Traffic Safety Administration

[Docket No. 80-9; Notice 2]

Request for Comments on Use of Reflective Material for Increasing the Conspicuity of Large Trucks

AGENCY: National Highway Traffic Safety Administration (NHTSA), DOT.

ACTION: Notice of request for comments.

SUMMARY: This notice requests comments concerning the use of reflective material to increase the conspicuity of large trucks and trailers. Numerous studies have shown that there may be a potential for reduction in the frequency with which other vehicles crash into large articulated trucks following treatment of the trucks with retroreflective material. The National Highway Traffic Safety Administration (NHTSA) has recently completed a fleet study in which large articulated trucks were treated with retroreflective material in a manner designed to increase their conspicuity. The conclusion reached by the contractor was that trailers equipped with this material were involved in approximately 15% fewer road crashes (significant at p. .09). However, the results obtained are of course sensitive to which crashes are considered relevant, their number, and the statistical methods used to evaluate the data, etc. NHTSA is seeking comments relative to these issues as they pertain to the research results (Docket No. 80-9; Notice 2), as well as obtaining information regarding the experiences of others with the use of reflective conspicuity enhancements. Of particular interest are comments concerning benefits, longevity, and any installation and maintenance problems associated with the use of relfective materials on large articulated trucks. The agency seeks comments from the trucking industry, truck and trailer manufacturers, and other interested persons, including the general public, on these issues as well as on any related issues commentors may choose to provide.

DATE: Closing date for comments is November 9, 1987.

ADDRESS: Comments should refer to the docket number and notice number and be submitted to: Docket Section, Room 5109, Nassif Building, 400 Seventh Street SW., Washington, DC 20590, (Docket hours are from 8 a.m. to 4 p.m.).

FOR FURTHER INFORMATION CONTACT: Mark Edwards, Office of Crash Avoidance Research, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590, (202-366-5677).

SUPPLEMENTARY INFORMATION: In May, 1980, NHTSA issued an advance notice of proposed rulemaking (NPRM) to amend Federal Motor Vehicle Safety Standard No. 108. The objective of the proceeding was to improve the noticeability of large articulated trucks through the use of enhanced markings and/or lights as a means of reducing their involvement in crashes where the trailer unit was struck in the rear or side (45 FR 35405; May 27, 1980). Of particular interst to NHTSA was the potential utility of reflective material as a means of enhancing truck conspicuity.

A central theme expressed among the comments to the ANPRM was the need to undertake a systematic approach to the development of an integrated set of large truck lighting, signaling, and marking requirements rather than merely to modify existing requirements to require additional devices without any assessment of their utility given existing lighting/marking regulations.

Shortly before the ANPRM was issued, NHTSA had initiated a three phase research project the objective of which was to develop and evaluate an optimal configuration of trailer markings and lights. NHTSA's desire to undertake improvements in the lighting and marking requirements for large combination unit trucks was based largely on the results of several studies of large truck crashes, all of which found that in many of these crashes the driver of the other vehicle did not appear to detect the presence of the large truck in time to avoid a collision. On the basis of these findings it was concluded that improvements in the conspicuity of these vehicles might reduce the frequency with which they were involved in these types of crashes.

The initial phase of this project consisted of a review of available literature and accident data, the results of which indicated that crashes wherein conspicuity of the truck might conceivably be a factor were about equall distributed between day and night, and involved collisions with both the sides and rear of the trailer. Subsequent to these findings, a series of laboratory and field studies was initiated to devise a means of marking large tractor-trailers so as to improve drivers' abilities to:

(1) Quickly and accurately identify large trucks in the traffic stream.

(2) Estimate their distance from large trucks.

(3) Judge their rate of closure.

The most effective marking scheme identified in these studies consisted of a strip of alternating colors outlining the side and rear perimeters of the trailer.

A fleet test of a variation of this marking scheme was initiated to establish the safety benefits of this approach to enhancing large truck conspicuity. This marking scheme consisted of a 2-inch wide strip of retroreflective tape alternately hatched red and white, or blue and white, outlining the lower side rail and rear perimeter of the trailer. A total of 3,820 trailers chosen at random from the fleets of participating trucking firms was involved in the fleet study. Half were marked with the experimental conspicuity treatment, half were not. During the 23 month evaluation period, each group accumulated over 106 million trailer miles of travel. The reported results of this fleet test indicated a reduction of approximately 15% (significant at p .09) in crashes considered relevant by the contractor performing this study. However, it is evident that which crashes are deemed relevant to conspicuity treatment significantly affect the overall results, and the conclusions derived from those results. In addition, the number of accidents considered necessary for determining effectiveness and the statistical methods used to analyze study data must be considered. Therefore, the agency is soliciting opinions from outside persons on their evaluation of these aspects of the study. To make such evaluations feasible, a version of the contractor's data base is being placed in Docket No. 80-9; Notice 2.

Final reports for Phases I and II are referenced in Docket No. 80-9; Notice 2 and can be reviewed in NHTSA Technical Reference Division, Room 5108, Nassif Building. A final report of the fleet test phase of this project (Contract No. DTNH22-80-C-07034) will be referenced in the same docket in September of 1987. NHTSA seeks comments on each of these reports as well as comments regarding the experiences of others with the use of reflective conspicuity enhancements. Of particular interest are comments concerning benefits, longevity, and any installation and maintenance problems associated with the use of reflective materials on large articulated trucks. The agency seeks comments from the trucking industry, truck and trailer manufacturers, and other interested persons, including the general public, on these issues as well as any on related issues commentors may choose to provide.

Findings from other evaluations of conspicuity enhancements also indicate reduced crash experience for treated vehicles. While not all of these studies meet accepted prerequisites for scientifically valid evaluations, all concluded that conspicuity enhancement reduces crash involvement. Among these are studies by the Greyhound Bus Lines, U.S. Army, U.S. Post Office, and the Toronto Transit Authority. Summaries of these and other studies are presented in SAE Paper 830566, and the 28th Annual Proceedings, American Association of Automotive Medicine, October 8-10, 1984, Denver, Colorado, PP 63-68. Copies of both documents are available in the docket.

NHTSA believes that there continue to be questions which must be answered before decisions on whether to proceed with rulemaking can be made. To this end NHTSA is considering additional research in this area, and would appreciate any data or information on the following:

Brightness—How "bright" must this material be to improve conspicuity? At present reflective materials can be made with such high reflectivity that they may create discomfort or disabling glare.

Viewing Angle—At what angles of view should conspicuity markings remain reflective? Presently available materials vary widely in this characteristic, some remaining effective only through relatively small viewing angles.

Colors—What consideration should be given to color?

Reflective Logos—Should reflective conspicuity treatments accommodate reflective logos and other reflective markings used in the trucking industry?

Trailer Types—What patterns are best for trailer types other than vans? Only markings for vans were addressed in NHTSA's sponsored study of large truck conspicuity enhancements. While this trailer type represents the vast majority of trailers, conspicuity markings could be cost beneficial for other trailer types such as tankers, flat beds, and auto carriers.

NHTSA is interested in obtaining comments as to:

1. The NHTSA research conducted to date as described in the three reports DOT-HS-806-100, DOT-HS-806-098, and DOT-HS-806-923, included in Docket No. 80-9; Notice 1.

2. Additional data regarding reflective conspicuity treatments, including fleet or individual experience. In particular, NHTSA is interested in obtaining crash data or other documented experience which could be used to assess the potential benefits and/or problems associated with using this approach to increasing truck conspicuity.

3. The general public's opinion of this approach to improving large truck conspicuity.

4. Manufacturer's data and actual field experience with the longevity of reflective conspicuity treatments in regards to any changes in its photometric properties, maintenance problems, and durability.

5. Potential benefits and disbenefits of using this material to increase the conspicuity of large trucks.

Interested persons are invited to submit comments in response to this request. It is requested, but not required, that 10 copies be submitted.

All comments must be limited to no more than 15 pages in length. (49 CFR 553.21). Necessary attachments may be appended to these submissions without regard to the 15-page limit. This limitation is intended to encourage commenters to detail their primary arguments in a concise fashion.

If a commenter wishes to submit certain information under a claim of confidentiality, three copies of the complete submission, included purportedly confidential information, should be submitted to the Chief Counsel, NHTSA, at the street address given above, and seven copies from which the purportedly confidential information has been deleted should be submitted to the Docket Section. A request for confidentiality should be accompanied by a cover letter setting forth the information specified in the agency's confidential business regulation, 49 CFR Part 512.

All comments submitted before the close of business on the comment closing date indicated above will be considered, and will be available for examination in the docket at the above address both before and after that date. To the extent possible, comments filed after the closing date will also be considered. However, agency decision making may proceed at any time after that date and comments received after the closing date and too late for consideration in regard to the action will be treated as suggetions for future rulemaking. NHTSA will continue to file relevant material as it becomes available in the docket after the closing date, and it is recommended that interested persons continue to examine the docket for new material.

Those persons desiring to be notified upon receipt of their comments in the rules docket should enclose, in the envelope with their comments, a self addressed stamped postcard. Upon receiving the comments, the docket supervisor will return the postcard by mail.

Authority: Sections 103, 119 Pub. L. 89-563.80 Stat: 718 (15 U.S.C. 1381 *et seq*); Delegations of Autority at 49 CFR 1.50 and 501.8.

Issued on: September 15, 1987.

Michael M. Finkelstein,

Associate Administrator for Research and Development.

[FR Doc. 87-21650 Filed 9-17-87; 8:45 am]

BILLING CODE 4910-59-M

DEPARTMENT OF THE TREASURY

Public Information Collection Requirements Submitted to OMB for Review

Date: September 14, 1987.

The Department of Treasury has made revisions and resubmitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1980, Pub. L. 96-511. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding these information collections should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Room 2224, Main Treasury Building, 15th and Pennsylvania Avenue NW., Washington, DC 20220.

Internal Revenue Service

OMB Number: New
Form Number: 1120-RIC
Type of Review: Resubmission
Title: U.S. Income Tax Return for Regulated Investment Companies
Description: Form 1120-RIC is filed by a domestic corporation electing to be taxed as a RIC in order to report its income and deductions and to compute its tax liability. IRS uses Form 1120-RIC to determine whether the RIC has correctly reported its income, deductions, and tax liability.
Respondents: Businesses or other for-profit
Estimated Burden: 12,906 hours

OMB Number: 1545-0687
Form Number: 990-T
Type of Review: Resubmission
Title: Exempt Organization Business Income Tax Return
Description: Form 990-T is needed to compute the section 511 tax on unrelated business income of a charitable organization. IRS uses the information to enforce the tax.
Respondents: Non-profit institutions
Estimated Burden: 293,897 hours

Clearance Officer: Garrick Shear (202) 535-4297, Room 5571, 1111 Constitution Avenue, NW., Washington, DC 20224

OMB Reviewer: Milo Sunderhauf (202) 395-6880, Office of Management and Budget, Room 3208, New Executive Office Building, Washington, DC 20503

Dale A. Morgan,

Departmental Reports Management Officer.

[FR Doc. 87-21563 Filed 9-17-87; 8:45 am]

BILLING CODE 4810-25-M

Public Information Collection Requirements Submitted to OMB for Review

Date: September 15, 1987.

The Department of Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1980, Pub.L. 96-511. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, Room 2224, 15th and Pennsylvania Avenue, NW., Washington, DC 20220.

Bureau of Alcohol, Tobacco and Firearms

OMB Number: 1512-0002
Form Number: ATF F 1600.7
Type of Review: Extension
Title: ATF Distribution Center Contractor Survey
Description: Information provided on ATF Form 1600.7 is used to evaluate the Bureau's Distribution Center contractor and the services it provides to users of ATF forms and publications.
Respondents: Businesses or other for-profit, Small businesses or organizations
Estimated Burden: 2 hours

Clearance Officer: Robert Masarsky (202) 566-7077, Bureau of Alcohol, Tobacco and Firearms, Room 7011, 1200 Pennsylvania Avenue, NW., Washington, DC 20226

OMB Reviewer: Milo Sunderhauf (202) 395-6880, Office of Management and Budget, Room 3208, New Executive Office Building, Washington, DC 20503

U.S. Customs Service

OMB Number: 1515-0120
Form Number: None
Type of Review: Reinstatement
Title: Commercial Invoice
Description: The information on the commercial invoice is used for the proper assessment of Customs Duties. The invoice is attached to the CF 7501. It is used to assure compliance with statutes and regulations.
Respondents: Businesses or other for-profit, Small businesses or organizations
Estimated Burden: 14,847 hours

OMB Number: 1515-0134
Form Number: None
Type of Review: Reinstatement
Title: Bonded Warehouses—Alterations, Suspensions, Relocations and Discontinuance
Description: The proprietor of a bonded warehouse may wish to alter, relocate, temporarily suspend all or part of the bonded space, or discontinue the bonded status of the warehouse. The district director may approve these changes upon receipt of a written application by the proprietor.
Respondents: Businesses of other for-profit
Estimated Burden: 193 hours.

OMB Number: 1515-0135
Form Number: None
Type of Review: Reinstatement
Title: Required Records for Smelting and Refining Warehouses
Description: Each manufacturer engaged in smelting or refining must file an annual statement with the Regional Director, Regulatory Audit, showing any material change in the character of the metal-bearing materials smelted or refined, or changes in the method of smelting or refining. Also, the records must show the receipt and disposition of each shipment and any losses incurred.
Respondents: Businesses or other for-profit
Estimated Burden: 288 hours

Clearance Officer: B.J. Simpson (202) 566-7529, U.S. Customs Service, Room 6426, 1301 Constitution Avenue, NW, Washington, DC 20229

OMB Reviewer: Milo Sunderhauf (202) 395-6880, Office of Management and Budget, Room 3208, New Executive Office Building, Washington, DC, 20503.

Dale A. Morgan,

Departmental Reports Management Officer.

[FR Doc. 87-21564 Filed 9-17-87; 8:45 am]

BILLING CODE 4810-25-M

Establishment of Office of Depreciation Analysis

The Department of the Treasury today announced the establishment of a new Office of Depreciation Analysis as part of the Office of Tax Analysis. The function of this new office, creation of which was mandated by the Tax Reform Act of 1986, is to study the anticipated declines in value and the anticipated

useful lives of depreciable assets. Using criteria set forth in the Tax Reform Act of 1986, the office will report to the Assistant Secretary for Tax Policy the appropriate class lives of various asset groups. The Office of Depreciation Analysis will also study the classification of existing asset groupings and existing Asset Depreciation Range (ADR) class lives.

The data needed for the asset depreciation studies include information on asset holdings and dispositions, the original cost and the price received on the sale of used assets, the terms of leasing and financing transactions, and the depreciation methods used for financial reporting purposes. Persons wishing to contact the Office of Depreciation Analysis regarding these studies should write to: Office of Depreciation Analysis, Room 4217, Department of the Treasury, 15th & Pennsylvania Avenue, NW., Washington, DC 20220.

O. Donaldson Chapoton,

Acting Assistant Secretary (Tax Policy).

September 14, 1987.

[FR Doc. 87-21631 Filed 9-17-87; 8:45 am]

BILLING CODE 4810-25-M

VETERANS ADMINISTRATION

Agency Form Under OMB Review

AGENCY: Veterans Administration.

ACTION: Notice.

The Veterans Administration has submitted to OMB for review the following proposal for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35). This document contains an extension and lists the following information: (1) The department or staff office issuing the form, (2) the title of the form, (3) the agency form number, if applicable, (4) a description of the need and its use, (5) how often the form must be filled out, (6) who will be required or asked to report, (7) an estimate of the number of responses, (8) an estimate of the total number of hours needed to fill out the form, and (9) an indication of whether section 3504(h) of Pub. L. 96-511 applies.

ADDRESSES: Copies of the forms and supporting documents may be obtained from Patti Viers, Agency Clearance Officer (732), Veterans Administration, 810 Vermont Avenue NW., Washington, DC 20420, (202) 233-2146. Comments and questions about the items on the list should be directed to the VA's OMB Desk Officer, Joseph Lackey, Office of Management and Budget, 726 Jackson Place, NW., Washington, DC 20503, (202) 395-7316.

DATES: Comments on the information collection should be directed to the OMB Desk Officer within 60 days of this notice.

Dated: September 14, 1987.

By direction of the Administrator.

Raymond S. Blunt,

Director, Office of Program Analysis and Evaluation.

Extension

1. Department of Veterans Benefits
2. Request for Change of Program or Place of Training, Survivors' and Dependents' Educational Assistance
3. VA Form 22-5495
4. This information is completed by a veteran's spouse, surviving spouse, or child to determine if the student is eligible for dependents' educational assistance for the new program and/or place of training.
5. On occasion
6. Individuals or households
7. 9,600 responses
8. 3,200 hours
9. Not applicable

1. Department of Veterans Benefits
2. Request for Armed Forces Separation Records
3. VA Form Letter 21-80e
4. This information is necessary to determine veteran's eligibility for benefits.
5. On occasion
6. Individuals or households
7. 102,000 responses
8. 17,000 hours
9. Not applicable

1. Department of Veterans Benefits
2. Claim for Monthly Payment, United States Government Life Insurance
3. VA Form Letter 29-4125k
4. This information is necessary to determine the beneficiary's eligibility for monthly payments of life insurance benefits.
5. On occasion
6. Individuals or households
7. 5,700 responses
8. 1,425 hours
9. Not applicable

[FR Doc. 87-21566 Filed 9-17-87; 8:45 am]

BILLING CODE 8320-01-M

Sunshine Act Meetings

Federal Register
Vol. 52, No. 181
Friday, September 18, 1987

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

DATE AND TIME: 2:00 p.m. (Eastern time) Tuesday, September 29, 1987.

PLACE: Clarence M. Mitchell, Jr., Conference Room, No. 200-C on the Second Floor of the Columbia Plaza Building, 2401 E Street, NW., Washington, DC 20507.

STATUS: Part of the meeting will be open to the public and part will be closed to the public.

MATTERS TO BE CONSIDERED:

Open Session

1. Announcement of Notation Vote(s)
2. A Report on Commission Operations (Optional)
3. Proposed section 630 of Volume II of EEOC's Compliance Manual, Unions
4. Pre-Complaint Processing and Complaint Processing for Fiscal Year 1986
5. Annual Report on the Employment of Minorities, Women and Individuals with Handicaps in the Federal Government for Fiscal Year 1986
6. Designation of Field Offices for 1987

Closed Session

Litigation Authorizations: General Counsel Recommendations

Note.—Any matter not discussed or concluded may be carried over to a later meeting. (In addition to publishing notices on EEOC Commission meetings in the **Federal Register**, the Commission also provides a recorded announcement a full week in advance on future Commission sessions.

Please telephone (202) 634-6748 at all times for information on these meetings).

CONTACT PERSON FOR MORE INFORMATION: Cynthia C. Matthews, Acting Executive officer on (202) 634-6748.

Date: September 15, 1987.

Cynthia Clark Matthews,

Executive Officer (Acting), Executive Secretariat.

[FR Doc. 87-21632 Filed 9-15-87; 4:22 pm]

BILLING CODE 6750-06-M

FARM CREDIT ADMINISTRATION

Special Meeting

SUMMARY: Notice is hereby given, pursuant to the Government in the Sunshine Act (5 U.S.C. 552b(e)(3)), of the forthcoming special meeting of the Farm Credit Administration Board (Board).

DATE AND TIME: The meeting is scheduled to be held at the offices of the Farm Credit Administration in McLean, Virginia, on September 22, 1987, from 10:00 a.m. until such time as the Board may conclude its business.

FOR FURTHER INFORMATION CONTACT: Elizabeth A. Kirby, Acting Secretary to the Farm Credit Administration Board, 1501 Farm Credit Drive, McLean, Virginia 22102-5090, (703-883-4010).

ADDRESS: Farm Credit Administration, 1501 Farm Credit Drive, McLean, Virginia 22102-5090.

SUPPLEMENTARY INFORMATION: Parts of this meeting of the Farm Credit Administration Board will be open to the public (limited space available), and parts of the meeting will be closed to the public. The matters to be considered at the meeting are:

1. Summary Prior Approval Items
2. Final Regulations: Part 606—Handicapped Regulations
3. Directive on the Retirement of Stock

*4. Compensation Approval of CEO Salary for Farm Credit System Bank

**5. Examination and Enforcement Matters

***6. Legislative Review and Update

*Session closed to the public—exempt pursuant to 5 U.S.C. § 552b(c)(6)(8).

**Session closed to the public-exempt pursuant to 5 U.S.C. § 552b(c) (4), (8) and (9).

***Session closed to the public—xempt pursuant to 5 U.S.C. § 552b(c)(9).

Dated: September 16, 1987.

Elizabeth A. Kirby,

Acting Secretary, Farm Credit Administration Board.

[FR Doc. 87-21710 Filed 9-16-87; 3:01 pm]

BILLING CODE 6705-01-M

FEDERAL RESERVE SYSTEM

TIME AND DATE: 10:00 a.m., Thursday, September 24, 1987.

PLACE: Marriner S. Eccles Federal Reserve Board Building, C Street entrance between 20th and 21st Streets, NW., Washington, DC 20551.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Federal Reserve Bank and Branch director appointments. (This item was originally announced for a closed meeting on September 14, 1987.)
2. Personnel actions (appointments, promotions, assignments reassignments, and salary actions) involving inidividual Federal Reserve System employees.
3. Any items carried forward from a previously announced meeting.

CONTACT PERSON FOR MORE INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board; (202) 452-3204. You may call (202) 452-3207, beginning at approximately 5 p.m. two business days before this meeting, for a recorded announcement of bank and bank holding company applications scheduled for the meeting.

Date: September 16, 1987.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 87-21724 Filed 9-16-87; 3:55 pm]

BILLING CODE 6210-01-M

Corrections

Federal Register
Vol. 52, No. 181
Friday, September 18, 1987

This section of the FEDERAL REGISTER contains editorial corrections of previously published Presidential, Rule, Proposed Rule, and Notice documents and volumes of the Code of Federal Regulations. These corrections are prepared by the Office of the Federal Register. Agency prepared corrections are issued as signed documents and appear in the appropriate document categories elsewhere in the issue.

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

7 CFR Part 301

[Docket No. 87-077]

Imported Fire Ant Regulated Areas

Correction

In rule document 87-20078 beginning on page 32907 in the issue of Tuesday, September 1, 1987, make the following corrections:

1. On page 32908, in the third column, in the first line, "*Etowah*" should read "*Etawah*".

2. On page 32909 in the first column, in the sixth line, "*Quachita* should read "*Ouachita*".

3. On page 32910, in the first column, in the 18th line, "*Oktibeha* should read "*Oktibbeha*".

4. On page 32912, in the first column, in the fifth line, "Ranch 965" should read "Ranch Road 965".

BILLING CODE 1505-01-D

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

9 CFR Parts 93 and 99

[Docket No. 86-073]

Importation of Elephants, Hippopotami, Rhinoceroses, and Tapirs

Correction

In rule document 87-18125 beginning on page 29498 in the issue of Monday, August 10, 1987, make the following corrections:

1. On page 29499, in the first column, in the first complete paragraph, in the sixth line from the bottom, "must be" should read "must not be".

2. On page 29500—

a. In the first column, in the 24th line, "or, a" should read "or, on a".

b. In the second column, in the first complete paragraph, in the fourth line, "§ 93.2(b)(5)(ii)" should read "§ 93.6(b)(5)(ii)".

c. In the third column, in the second complete paragraph, in the 12th line, "§ 93.(b)(2)" should read "§ 93.6(b)(2)".

PART 93—[CORRECTED]

§ 93.4 [Corrected]

3. On page 29503, in the first column, in § 93.4(a)(4), in the ninth line, "Service" should read "Services,".

§ 93.5 [Corrected]

4. On page 29503, in the first column, in § 93.5, in the third line, "of the" should read "or the".

§ 93.8 [Corrected]

5. On page 29504, in the second column, in § 93.8(a)(1)(ii), in the third line, "physical" was misspelled.

BILLING CODE 1505-01-D

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[Modification No. 1 to Permit No. 552]

Marine Mammals; Permit Modification; Dr. Gerald L. Kooyman

Correction

In notice document 87-18194 appearing on page 29715 in the issue of Tuesday, August 11, 1987, make the following corrections in the second column:

1. In paragraph 3., in the third line "adopt" should read "adapt".

2. In paragraph 8.a., in the second line "unreasonable" should read "unreleasable".

BILLING CODE 1505-01-D

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 761

[OPTS-62035F; FRL 3217-1]

Polychlorinated Biphenyls in Electrical Transformers

Correction

In proposed rule document 87-19198 beginning on page 31738 in the issue of Friday, August 21, 1987, make the following corrections:

PART 761—[CORRECTED]

§ 761.30 [Corrected]

On page 31746—

1. In the second column, in § 761.30(a)(1)(iv)(A), in the 10th line, "paragraph (a)(l)(v)" should read "paragraph (a)(1)(v)".

2. In the third column, in § 761.30(a)(1)(iv)(B), in the eighth line, "paragraph (a)(l)(iv)(A)" should read "paragraph (a)(1)(iv)(A)".

BILLING CODE 1505-01-D

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Care Financing Administration

42 CFR Parts 405, 412, 413, and 466

[BERC-400-F]

Medicare Program; Changes to the Inpatient Hospital Prospective Payment System and Fiscal Year 1988 Rates

Correction

In rule document 87-19988 beginning on page 33034 in the issue of Tuesday, September 1, 1987, make the following corrections:

§ 412.113 [Corrected]

1. On page 33058, in the first column, in the amendatory instruction concerning § 412.113, in the third line, "of the cost" should read "of a cost".

§ 412.208 [Corrected]

2. On page 33059, in § 412.208(h)(2)(i), in the first column, in the fourth line, "an urban area" should read "a rural area".

Table 4a [Corrected]

3. In Table 4a, on page 33096, in the first column, in the entry for "Chattanooga, TN-GA", the wage index was omitted and should read "0.9165".

BILLING CODE 1505-01-D

Federal Register

Friday
September 18, 1987

Part II

Department of Health and Human Services

Health Resources and Services Administration

Council on Graduate Medical Education; Public Hearing; Notice

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Services Administration

Council on Graduate Medical Education; Public Hearing

AGENCY: Health Resources and Services Administration.

ACTION: Notice of public hearing, Council on Graduate Medical Education.

TIME AND DATE: 9:00 a.m to 5:00 p.m.; November 19, 1987, and if necessary November 20.

PLACE: Hyatt Regency-Bethesda, One Bethesda Metro Center, Bethesda, Maryland.

SUPPLEMENTARY INFORMATION: The Council is required by statute to provide advice and make recommendations to the Secretary of the Department of Health and Human Services, the Senate Labor and Human Resources and Finance Committees, and the House Energy and Commerce and Ways and Means Committees with respect to:

(A) The supply and distribution of physicians in the United States;

(B) Current and future shortages or excesses of physicians in medical and surgical specialties and subspecialties;

(C) Issues relating to foreign medical school graduates;

(D) Appropriate Federal policies with respect to the matters specified above, including policies concerning changes in the financing of undergraduate and graduate medical education programs and changes in the types of medical education training in graduate medical education programs;

(E) Appropriate efforts to be carried out by hospitals, schools of medicine, schools of osteopathy, and accrediting bodies with respect to the matters specified in (A), (B) and (C), including efforts for changes in undergraduate and graduate medical education programs; and

(F) Deficiencies in, and needs for improvements in, existing data bases concerning the supply, distribution of, and post-graduate training programs for, physicians in the U.S. and steps that should be taken to eliminate those deficiencies.

The Council also is required to encourage entities providing graduate medical education to conduct activities to voluntarily achieve the recommendations of the Council.

The Council has been established for a 10-year period, with its first report due no later than July 1, 1988.

To facilitate its work, the Council established three subcommittees: Physician Manpower; Foreign Medical Graduates; and Graduate Medical Education Programs and Financing. Each of these subcommittees, in turn, developed a list of issues to guide its deliberations both for the short term as well as for subsequent reports. These issues, which were collectively reviewed and approved by the Council meeting in plenary session on June 30, 1987, are listed at the end of this announcement.

The testimony offered at the Public Hearing should concentrate on this list of issues, with particular attention given to those issues that are asterisked. The asterisked items represent issues which Council members have identified as priority matters for the Council's first report. (Note: At the same time, this Hearing is not meant to preclude any organizations/individuals from providing testimony on non-asterisked issues or on any issues not listed in this notice that are believed to be related to the statutory charge of the Council.)

The Hearing is viewed by the Council as an opportunity to obtain a broad span of views concerning these issues. For example, the Foreign Medical Education Subcommittee has had panel presentations regarding the issue of whether there are different obligations to U.S. citizen FMGs than to non-citizen FMGs regarding opportunities for graduate medical education, as well as the issue of whether there is a need for formal recognition of foreign medical schools. The Hearing provides an opportunity to solicit additional views on such matters.

The Physician Manpower Subcommittee, for example, has already been in contact with a number of professional medical specialty organizations regarding their views on the adequacy of physician supply by specialty. The Hearing provides an opportunity to solicit views on this matter from other organizations and individuals. (Note: At the same time, this Hearing is not meant to preclude any organizations/individuals that have already addressed the Council from providing testimony as part of the Hearing process.)

The Graduate Medical Education Programs and Financing Subcommittee, for example, has had extensive discussions regarding such matters as: what are the costs of graduate medical education; who are the beneficiaries; who should bear the responsibility for its financing; whether it is desirable to increase the emphasis on teaching in non-inpatient settings, and, if so, how should medical education be financed in ambulatory or other non-inpatient settings. The Hearing provides an added opportunity to obtain additional views and proposals that address these matters.

Those wishing to testify should contact Mr. Paul M. Schwab, Executive Secretary of the Council, no later than October 15, 1987, either by telephone at 301/443-2033 or by writing to Mr. Paul M. Schwab, Executive Secretary, Council on Graduate Medical Education, Health Resources and Services Administration, 5600 Fishers Lane, Room 14-05, Rockville, Maryland 20857. Organizations and individuals are encouraged to provide any studies, reports, or data that could be referenced in support of the testimony. Once final arrangements have been made, those persons or organizations who expressed a desire to testify will be notified of the time limitations and other procedures which will apply to the Hearing. For example, there may be a limitation placed on the number of people testifying on behalf of any one organization. In the event that the number of those interested in personally testifying exceeds the number of individuals/organizations that can be accommodated on November 19 and 20, preference will be given to the order of written requests to testify received, beginning with requests postmarked September 21. Written testimony pertinent to the issues being considered at the Hearing may be submitted to Mr. Schwab at the above address by persons unable to attend.

List of COGME Issues

A. Physician Manpower

*1. Assuming a continuation of current policies and present trends, what conclusions can be drawn about the adequacy of the expected supply of physicians over the next two decades?

*a. in the aggregate?

*b. primary care physicians?

c. by specialty?

2. What conclusions can be drawn about the effects of new technologies, scientific breakthroughs, new diseases, and demographic changes on the demand for physician manpower? Furthermore, what conclusions can be drawn about the effects of changes in the areas of geriatrics and long-term care on the demand for physician manpower?

3. What conclusions can be drawn about the impact of the cost of medical education on the number of qualified students seeking such an education, particularly those from underrepresented groups?

*4. What policy changes in the public and private sectors are recommended to

deal with any projected imbalances in the physician supply? What is the relative role of marketplace versus other initiatives to remedy these imbalances?

*5. What impact will these recommendations have on:

a. the quality of health care?

b. health care costs?

c. access to health care?

d. minority representation in the medical profession?

e. physician function?

6. To what extent can the goals of quality, affordability, and accessibility of health care be achieved by substituting non-physician providers for physicians?

7. Is it desirable to create a buffer to avoid rapid swings in physician supply imbalances? If so, how can this be achieved?

8. To what extent can the above issues be addressed and resolved in time for the first report, given the adequacy of studies and data presently/potentially available for the Physician Manpower Subcommittee to draw conclusions and make recommendations about the adequacy of the expected supply of physicians?

B. Foreign Medical Graduates

*1. What effect will the removal (abrupt or phased) of FMGs from hospital training have on the availability of hospital-based services? What policies should be implemented if short-term effects are disproportionately distributed among hospitals and/or specialties?

2. What effect will there be on the total number, specialty and geographic distribution of practicing M.D.'s if the number of FMG entrants decline?

*3. Are there different obligations to U.S. citizen FMGs (born and naturalized) than to non-U.S. citizen FMGs (permanent residents, refugees, and international visitors) regarding opportunities for graduate medical education?

4. Is there a need for a different financing system for FMGs in GME than for graduates of U.S. medical schools?

*5. Should the United States continue to provide specialty training for international exchange visitors who will return to their native country to practice? If so, should existing graduate medical education training be modified with opportunities for other models of training/assistance?

*6. Should additional mechanisms for evaluating FMGs prior to their entry into graduate medical education be established?

*7. Is there a need for formal recognition of foreign medical schools? If so, how should this be accomplished?

8. Are there quality of care issues specific to FMGs which require attention?

9. Are there other graduate medical education training program issues specific to FMGs which require attention?

C. Graduate Medical Education Programs and Financing

*1. What should be paid for in graduate medical education?

a. How should direct graduate medical education costs be financed?

b. How should the financing of faculty be handled?

c. What should be incorporated into indirect teaching adjustments?

*2. What are appropriate sources for financing graduate medical education? Should the Federal Government fund graduate medical education? If so, how and to what degree?

3. Should graduate medical education costs be separately identified at all, or should they be integrated into payment for services?

*4. How should funding for graduate medical education be channeled? To hospitals, ambulatory care settings, practice groups, residents, etc.?

5. How should funding of graduate medical education costs for foreign medical graduates be handled? How should funding of graduate medical education costs for international exchange visitors be handled?

*6. If it is desirable to increase the emphasis on teaching in non-inpatient settings, how should medical education be financed in ambulatory or other non-inpatient settings?

a. What can be done in graduate and undergraduate medical education to provide incentives and eliminate barriers to increased teaching in non-patient settings?

b. What is the role of the public versus the private sector in achieving these objectives? What steps should be taken by academic health centers?

7. What choices should be made in regard to numbers of years of residency training? Who should make the choices and how should they be made?

8. Should the numbers and types of physicians trained be largely guided by the health care delivery needs of individual facilities, or by national manpower considerations?

*9. What is the relationship between the delivery of health care for the poor and graduate medical education?

FOR ADDITIONAL INFORMATION CONTACT: Paul M. Schwab, Health Resources and Services Administration, Executive Secretary, Council on Graduate Medical Education, 301/443-2033.

Date: September 10, 1987.

David N. Sundwall,

Administrator, Health Resources and Services Administration.

[FR Doc. 87-21282 Filed 9-17-87; 8:45 am]

BILLING CODE 4160-15-M

Friday
September 18, 1987

Part III

Department of Energy

10 CFR Part 961

Standard Contract for Disposal of Spent Nuclear Fuel and/or High-Level Radioactive Waste; Final Rule

DEPARTMENT OF ENERGY

10 CFR Part 961

Standard Contract for Disposal of Spent Nuclear Fuel and/or High-Level Radioactive Waste

AGENCY: Department of Energy.

ACTION: Final rule.

SUMMARY: This rule amends the Standard Contract for Disposal of Spent Nuclear Fuel and/or High-Level Radioactive Waste (standard disposal contract) originally published by the Department of Energy (DOE) on April 18, 1983, to be used by DOE in furnishing disposal services to the owners or generators of nuclear fuel and/or high-level radioactive waste (48 FR 16590). This rule modifies Article I.13, Articles VIII.A.1. and B.1., and Appendix G of the standard disposal contract in conformance with the December 6, 1985 ruling of the United States Court of Appeals for the District of Columbia that the ongoing 1.0 mill per kilowatt hour (1M/KWH) fee in DOE's standard disposal contract should be based on net generation of electricity, rather than gross generation of electricity as adopted in the final rule (*Wisconsin Electric Power Co. v. Dept. of Energy*, 778 F.2d 1 (D.C. Cir. 1985)).

EFFECTIVE DATE: April 7, 1983.

FOR FURTHER INFORMATION CONTACT:

Alan B. Brownstein, Office of Civilian Radioactive Waste Management, Department of Energy, 1000 Independence Avenue SW., Room GB-270, Washington, DC 20585, (202) 586-1652

Christopher T. Jedrey, Office of Procurement Operations, Department of Energy, 1000 Independence Avenue SW., Room 1J-027, Washington, DC 20585, (202) 586-1009

Robert Mussler, Esq., Office of General Counsel, Department of Energy, 1000 Independence Avenue, SW., Room 6A-113, Washington, DC 20585, (202) 586-6947

SUPPLEMENTARY INFORMATION:

I. Background

The Nuclear Waste Policy Act of 1982, enacted on January 7, 1983 (hereinafter referred to as "the Act," Pub. L. 97-425, 96 Stat. 2201 (42 U.S.C. 10101 et seq.)), provides a comprehensive framework for disposing of commercial spent nuclear fuel (SNF) and high-level radioactive waste (HLW) of domestic origin. Section 302 of the Act requires DOE and each owner or generator (hereinafter referred to as "utility" or "purchaser") of SNF and/or HLW to execute, by June 30, 1983, a standard disposal contract under which DOE will accept and dispose of such material.

On April 18, 1983, DOE published its final rule (48 FR 16590) which established the standard disposal contract. Article I.13 defined "kilowatt hours generated" as "electricity generated by nuclear fuel at a civilian nuclear power reactor specified in Appendix A hereto as measured at the output terminals of the turbine generator, including an equivalent amount of electricity for any process heat generated by the reactor and used other than at the reactor" [gross generation].[1] Article VIII.A.1 and B.1 used this definition as a basis for calculating the ongoing lM/KWH fee.

By its decision on December 6, 1985 (*Wisconsin Electric Power Co. v. Dept. of Energy*, 778 F.2d (D.C. Cir. 1985)), the United States Court of Appeals for the District of Columbia held that the definition in the standard disposal contract of "kilowatt hours generated" was invalid, in part, on the ground that section 302(a)(2) of the Act meant to establish disposal charges based on electricity "generated * * * and sold," i.e., "net" generation. The issue before the Court was whether the " * * * fee levied on nuclear generation of electricity applies to all nuclear-generated electricity (gross generation) or, instead, only to that nuclear-generated electricity which is sold by utilities, thus excluding electricity that the generating plant itself consumes (net generation)." Id. at 2. The Court held that "generated * * * and sold" excluded electricity which the generating plant itself consumes.

On November 7, 1986, DOE published its proposed rule [51 FR 40684] which was intended to amend the standard disposal contract consistent with the Court's ruling. This final rule implements the Court's decision.

[1] Definition as corrected on May 24, 1983 (48 FR 23160)

II. Comments

Written comments on the proposed rule were received from a total of 17 organizations representing nuclear power companies and an electric power association (whose members include nuclear power utilities). Copies of all comments received are available in the DOE Reading Room, Room 1E-190, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC.

All comments received by DOE in response to its proposed rule of November 7, 1986, including four late comments, were carefully reviewed and fully considered in the formulation of this final rule. A summary of the substantive comments received by DOE is set forth below together with the Department's action regarding these comments.

A. Areas of Primary Interest

Most of the public comments received on the proposed rule addressed the definition and measurement of net generation [discussed below in Section II.B.], as follows: (1) Whether net generation should be measured at the output side of the station transformer as proposed, or at the point of sale (i.e., whether transmission and distribution losses, other offsite company use, and free service should be excluded from the KWH fee basis); (2) whether gross generation should be reduced by electricity used by onsite nonnuclear units and/or onsite unmetered diesel generation; (3) the appropriate time interval for measuring net generation; and (4) whether single-unit stations at multiple locations should be treated differently from multi-unit stations.

B. Sectional Analysis of Public Comments

The proposed rule was published on November 7, 1986 [see 51 FR 40684]. As described more fully below, several provisions were revised, clarified or added as a result of the comments received.

1. Article I.—Definitions

a. Treatment of transmission and distribution losses. Six commentors (including as association representing 43 utilities) suggested that DOE's proposed definition of net generation failed to adequately reflect the "generated * * * and sold" language of the NWPA and the Court of Appeals December 6, 1985 decision. These

commentors stated that the NOPR definition did not allow that portion of electricity not actually sold to be deducted from gross generation. The definition suggested by the commenters differs from that in the NOPR primarily in that it would permit deductions for transmission and distribution losses between the nuclear plant and the customers' meters. Also included in the "not sold" category would be other offsite company use and lost service.

Recognizing that transmission and distribution losses are not measured, and that metering costs would be prohibitive, three commenters recommended that DOE adopt a standard deduction based on an industry-wide average of kilowatt hours not sold. This averaging concept would result in a proposed 8.65 percent standard deduction in addition to the deduction of approximately 5 percent for station service loads. One commenter suggested that this standard deduction be made utility-specific in the future to provide for maximum equity, while the other commenters recommended annual updating and retention of the industry-wide averaging approach. In total, this alternative would result in a ratio of net generation to gross generation for fee calculation purposes of approximately 87 percent, rather than the ratio of roughly 95 percent based on DOE's proposed definition.

DOE has not adopted the recommendation of an 8.65 percent standard deduction for numerous reasons. Contrary to the commenters' assertion, DOE's approach does not disregard the Court's December 6, 1985 decision. In footnote 10 of its opinion, the Court noted that the petitioners chose not to assert the point that "and sold" should exclude transmission losses. *Id.* at 5. Accordingly, these losses were not addressed in the Court's interpretation of the term "generated * * * and sold" as used in the Act.

Furthermore, DOE has determined that, if adopted, this 8.65 percent standard deduction would result in substantial inequities among utilities. Geographic, organizational, and specific service characteristics contribute to significant differences in transmission and distribution losses among various power plants. For example, if the commenters' simplified calculation methodology were adopted, utilities with load centers far from the reactors, or with a lower proportion of more efficient, high-voltage AC or DC transmission lines, would subsidize utilities whose service territory or grid systems exhibit opposite characteristics. Joint ownership arrangements of nuclear utilities and intra- and inter-utility power transfers would further challenge the accuracy and equity of using an industry-wide average deduction. Moreover, transmission and distribution losses reported on the Federal Energy Regulatory Commission Form 1 showed an average 6.9 percent (rather than the 8.65 percent) value of electricity "not sold" and variations among individual plants ranging from 0.18 to 19.2 percent. Therefore, use of a standard deduction for electricity not sold would result in cross-subsidization among utilities and would violate the equity principle underlying the NWPA.

DOE also examined several alternative approaches using a disaggregated utility-specific basis for estimating and verifying transmission and distribution losses. However, DOE found that, if more elaborate estimation techniques were employed to quantify that portion of electricity generated and lost in transmission, the additional data DOE would require from utilities would substantially increase the administrative burden of the utilities as well as that of DOE. Furthermore, the accuracy of the fee verification process would decrease if DOE adopted the commenters' approach.

DOE's proposed definition is consistent with the definition of net generation originally put forward in the NOPR for the standard disposal contract on February 4, 1983. At that time, DOE received no substantive comment on, or objection to, that definition from utilities, either during the public hearing or the public comment period.

For the foregoing reasons and upon careful consideration of all comments received, DOE has determined that the definition of net generation as set forth in the November 7, 1986 NOPR reflects the intent of Congress as expressed in the NWPA, as well as the December 6, 1985 opinion of the Court of Appeals. Accordingly, for clarity, DOE has revised the term "kilowatt hours generated" set forth in the NOPR to "net kilowatt hours generated." The use of this definition of net generation for purposes of calculating the fee assures a reasonable balance between maximum achievable accuracy and additional costs to the utilities and to DOE. Finally, the Court of Appeals was concerned that DOE adopt a "modest" approach in defining net generation of electricity so as not to defeat Congress' intent that an unfair burden not be placed on future ratepayers if DOE initially collects insufficient revenues. *Wisconsin Electric Power Co.*, 778 F.2d at 11.

Therefore, DOE's definition follows the guidance of the Court and ensures that, as envisioned by Congress, current ratepayers carry their fair share of the burden of paying for the disposal of nuclear waste.

b. Conventional definition of net generation. One commenter suggested using the "conventional" definition of net generation which is used in " * * * reporting to the NRC on Form EIA–759." DOE interprets this comment as a reference to the monthly reports sent to the Nuclear Regulatory Commission (NRC) on the Operating Data Report (ODR) and to the Energy Information Administration (EIA) on the Electric Power Monthly Form EIA–759. Careful review of these forms, their respective definitions of net generation, and the manner in which the utilities have completed their submissions indicated that the definitions are not identical, and that no single conventional procedure for completing the forms exists. The NRC's ODR definitions require calculations of net generation on a unit-by-unit basis over a monthly interval, while the Form EIA–759 requires a monthly calculation on a station basis, with submission on a unit basis. The ODR also contains the Average Daily Unit Power Level (ADUPL) report which collects net generation data for each 24-hour period.

Both the ODR and the ADUPL allow the utility to select one of two definitions of net generation. One appears in the NRC publication, "Licensed Operating Reactors" (NUREG–0020), the other in the 1974 NRC Regulatory Guide 1.16, which has never been officially superseded by the NRC. The former definition allows the use of negative values (deduction of electricity generated offsite), while the latter does not. The EIA–759 definition instructs utilities to deduct offsite generation. However, some utilities appear not to follow this definition, instead submitting data which are consistent with their NRC submissions based on the 1974 definition.

In addition, the method for measuring and reporting net generation varies among utilities from daily manual recordings of meter readings to automated, real-time computer readings which are stored hourly. Both the manual and the computerized measurements may then be reported on a monthly basis without consideration of the disaggregated daily or hourly data. Administrative adjustments based on readings from meters not located in control rooms also appear to be made occasionally to account for specific aspects of station use and to either

include or exclude generation from diesel-powered generators. These administrative corrections are generally performed using a computerized accounting system. Of all the existing potential definitions and implementation procedures, the proposed definition matches most closely the data available on the ADUPL.

Based on a review of utility fee payments using the proposed definition, DOE concluded that the vast majority of these payments are consistent with the ADUPL data. The fee verification studies performed by DOE showed that the data needed to conform to the proposed definition exist within each utility. Therefore, DOE has not adopted the commenters' recommendation that the fee be based on net generation as reported on Form EIA-759.

2. Annex A to Appendix G

a. Clarification of "At All Times". Eleven commenters suggested that the instructions for Appendix G, Annex A, Section 2.3, which included the phrase "at all times," in reference to the time frame required for metering, were vague and subject to differing interpretations by utilities. Moreover, some commentors argued that the term "at all times" could be interpreted in the extreme to mean "instantaneously," or each time a plant is phased in or out of service, and that it could thus impose an unnecessary burden on the plant operator, which, in turn, could impact negatively on plant safety. The commentors' recommendation that DOE appropriately define a common time denominator for reading meters ranged from hourly, daily, and monthly to quarterly.

DOE agrees that the phrase "at all times" requires further clarification. Accordingly, the Department has modified the Annex A instructions to indicate that the appropriate common time denominator is daily. The daily period was selected because it: (1) Does not add to the utilities' administrative burden; (2) is already reported to the NRC on the ADUPL report; and (3) reduces the potential for non-station-generated electricity (negative megawatt hour values resulting during periods of no or low power when station use is supplied from outside the station) to offset the megawatt hours on which the fee is based.

b. Deductions for "Out-of-Service" periods. One commenter suggested that dividing the calendar quarter into in-service and out-of-service time periods does not allow appropriate deductions for out-of-service periods from gross electrical generation.

DOE is allowing an out-of-service offset to gross generation for days on which generation exceeds consumption of electricity generated from nonnuclear energy sources. Also, DOE is allowing this out-of-service offset for multi-unit stations when at least one reactor is generating station power, and, therefore, the energy source is clearly nuclear power. DOE is similarly allowing such deductions when there exist metered power lines between two offsite nuclear units or between two nuclear units connected through a shared transformer. DOE believes that to allow one utility to make deductions for electricity generated from nonnuclear sources in excess of that which is routinely recorded (daily) would not be equitable to other utilities. Similarly, to require more frequent reporting intervals (e.g. hourly) would place an excessive burden on many utilities. Therefore, while DOE has not adopted the commenters' specific recommendation, DOE recognizes that potential inequities could result if utilities implemented allowable deductions differently. Therefore, to assist in assuring uniform implementation of allowable deductions as discussed above, the Annex A form has been modified to distinguish between station power from a nuclear unit and station power from nonnuclear sources.

c. Certification requirements and metering equipment. Two commenters stated that the requirements of the proposed rule for certification of net generation cannot be satisfied unless new, expensive metering equipment is installed. In one instance, the commentor indicated that nonnuclear generation was embedded in normal station service loads, while the other commenter indicated that nonnuclear load could not be accurately divided among the units of a multi-unit station. In the former case, it was suggested that utilities be allowed the flexibility to disregard such nonnuclear generation since it involved "paltry" amounts of electricity. In the latter case, it was suggested that the Annex A forms be adjusted so that utilities could continue to report net generation by unit, but provide certification for total net generation only.

DOE recognizes the validity of the commenters' concerns and has adopted their recommendations. The new Annex A form is to be submitted for each station (rather than for each unit as previously required), with a column provided for each unit at the station. If a utility is unable to provide metered unit data, the estimated unit data may be used, and a brief explanation of the estimation methodology must be provided. For those utilities whose gross generation includes small quantities of unmetered nonnuclear electrical generation, estimates of such unmetered generation may be deducted for fee calculation purposes. In such cases, utilities must provide a brief explanation of how the data were estimated. The certification statement on the Appendix G form has also been modified to require certification of the Total Remittance Section 6.0.

d. Non-collocated nuclear stations. One commenter expressed concern that non-collocated nuclear stations are treated inequitably by the proposed rule relative to collocated, multi-unit stations. Specifically, DOE had proposed that, when at least one nuclear unit was operating (generation from at least one unit exceeds station use), electricity generated from that unit should be assumed to be supplying the normal nuclear station load, whether or not it could be separately metered. The commenter recommended that a utility should be allowed to assume that, whenever all units at a station are not operating, the electricity used by that station is provided in part by offsite nuclear generation from the system in the same ratio as that of total nuclear generation to total utility generation.

The commenter's observation is correct. DOE's reason for originally proposing the assumption for collocated plants was to allow utilities to avoid the cost of additional metering equipment. However, there is little assurance that nuclear electricity generated offsite will actually serve the load of a non-operating station because: (1) The contribution of nuclear generation to total system generation fluctuates from minute to minute according to customer demands and (2) the stations may be hundreds of miles apart. This situation would also differ significantly from that of a collocated multi-unit station where a direct relationship exists between nuclear generation and station use. If a direct line were to exist between non-collocated units, and if this line were metered, DOE would treat these units according to the collocated multi-unit assumption. If the commenter's recommended methodology were adopted, the additional burden and cost of the data collection and verification effort that would be needed to maintain current confidence levels for fee calculations would likely far outweigh any financial benefit to a particular utility. Since it is believed that the administrative costs of verification would exceed any reduction in the fee that would result from adoption of the

commenter's suggestion, DOE has not adopted this recommendation.

e. Other modifications. Annex A instructions have been modified slightly in other areas in response to editorial suggestions by commenters or based on combined DOE/utility experience with the forms since 1983. An example of the latter is the elimination of examples in Section 1.0, Identification Information. In addition, the elimination of the three data items proposed in the NOPR has been adopted.

One commenter suggested that the forms be modified to include a "current revision date" next to the form number to accommodate any future revisions and preclude the future use of obsolete forms. This suggestion was adopted by placing "OMB Number" and "Effective Through:" at the upper right corner of the forms. One commenter suggested that, since some terms could be interpreted as having more than one meaning, Article I, Definition, of the standard disposal contract should be expanded. DOE has not adopted this suggestion since the changes made to the forms, including revised instructions, are believed to have minimized the potential for confusion.

C. Additional Public Comments and Modifications

In addition to the public comments keyed to the standard disposal contract discussed in Section II.B. above, DOE received several other comments relating to the proposed rule of November 7, 1986. Two commenters observed that the NOPR did not specify a retroactive date for changing the basis of the ongoing fee from gross to net generation. The Department agrees with the commenters. Accordingly, since the standard disposal contracts provided for April 7, 1983, as the effective date the ongoing fee commenced, the Department has determined that this is the proper date for changing the basis for calculating the ongoing fee from gross to net generation.

Although not within the scope of the NOPR, five commenters requested that DOE pay interest on utility overpayments into the Nuclear Waste Fund as a result of the Court of Appeals' decision. By letter of May 18, 1987, DOE informed all affected utilities that, as a consequence of sovereign immunity, such interest cannot be paid.

For purposes of consistency with the definition in Article I, DOE has also made minor changes to Articles VIII.A.1 and B.1. that were not raised in public comments. Specifically, the term "kilowatt-hour" in Article VIII.A.1. has been replaced by the term "net kilowatt hour." Similarly, the term "net electricity generated" has replaced the term "electricity generated" in Article VIII.B.1.

III. Final Rule

As set forth below, the purpose of this final rule is to amend the standard disposal contract consistent with the Court ruling that the ongoing fee should be based on net generation of electricity.

Section 961.11 (amended) sets forth changes to the contract necessary to implement the payment of the ongoing fee pursuant to the Court's decision:

Article I—Definitions—Replaces the term "kilowatt hours generated" with the term "net kilowatt hours generated."

Article VIII.A.—Fees—Substitutes the term "net kilowatt hour" for the term "kilowatt-hour."

Article VIII.B.—Payment—Substitutes the term "net electricity generated" for the term "electricity generated."

Appendix G—Remittance Advice (RA) for Payment of Fees—Revises both the RA form and the Annex A to Appendix G form [2] currently used by utilities to reflect payment based on net generation. Instructions for the Annex A form have also been changed to reflect the procedures for determining net generation for fee calculation purposes. In addition, three data items have been eliminated since they dealt with equivalent electrical energy generation (process heat) which is no longer applicable.

IV. Procedural Requirements

A. Executive Order No. 12291

Under Executive Order 12291, agencies are required to determine whether proposed rules are major rules as defined in the Order. DOE has reviewed this final rule and has determined that it is not a major rule because it will not have an annual effect on the economy of $100 million or more; it will not result in a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; and it will not have significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises.

B. Regulatory Flexibility Act

In accordance with Section 605(b) of the Regulatory Flexibility Act, 5 U.S.C. 601, et seq., DOE finds that Sections 603 and 604 of the Act do not apply to this rule because it will not have a significant economic impact on a substantial number of small entities. This finding is based on the fact that the parties to the contract, who are owners or generators of spent nuclear fuel or high-level radioactive waste, are not small entities.

C. National Environmental Policy Act

Execution of amendments to the standard contract in this rulemaking will not result in any effect on the quality of the human environment. Therefore, DOE has concluded that the rulemaking is not a major Federal action significantly affecting the quality of the human environment. Accordingly, preparation of neither an environmental assessment nor an environmental impact statement is required.

D. Paperwork Reduction Act

In accordance with section 3504(h) of the Paperwork Reduction Act of 1980 (Pub. L. 96-511), this rule has been submitted to the Office of Management and Budget (OMB) which has approved the data collection requirements contained herein.

List of Subjects in 10 CFR Part 961

Government contracts, Nuclear materials, Nuclear powerplants and reactors, Radiation protection, Waste treatment and disposal.

In consideration of the foregoing, Part 961, Chapter III of Title 10, Code of Federal Regulations is amended as set forth below.

Issued in Washington, DC, September 14, 1987.

Benton J. Roth,

Director, Procurement and Assistance Management Directorate.

PART 961—[AMENDED]

1. The authority citation for Part 961 continues to read as follows:

Authority: Sec. 644, Pub. L. 95-91, 91 Stat. 599 (42 U.S.C. 7254) and Sec. 302, Pub. L. 97-425, 96 Stat. 2257 (42 U.S.C. 10222).

2. The Contract in § 961.11 is amended by revising Article I, paragraph 13, Articles VIII. A.1. and B.1., and Appendix G to the Contract, including Annex A to Appendix G as set forth below. Annex B to Appendix G remains unchanged.

§ 961.11 Text of the contract.

* * * * *

Article I—Definitions

* * * * *

13. The term "net kilowatt hours generated" means the gross electrical output produced by a civilian nuclear

[2] Current forms are modified versions of the original forms published on April 18, 1983 (48 FR 16590).

power reactor measured at the output terminals of the turbine generator minus the normal onsite nuclear station service loads during the time electricity is being generated. Instructions to Annex A to Appendix G provide further guidance on the calculation procedures for reporting purposes. The term "net kilowatt hours generated" is also referred to as "net electricity generated".

* * * * *

Article VIII—Fees and Terms of Payment

* * * * *

A. Fees

1. Effective April 7, 1983, Purchaser shall be charged a fee in the amount of 1.0 mill per net kilowatt hour generated (1M/KWH) by Purchaser's nuclear power reactor(s). The said fee shall be paid as specified in paragraph B of this Article VIII.

* * * * *

B. Payment

1. For net electricity generated by the Purchaser's civilian nuclear power reactor(s) on or after April 7, 1983, fees shall be paid quarterly by the Purchaser and must be received by DOE not later than the close of business on the last business day of the month following the end of each assigned 3-month period. The first payment shall be due on July 31, 1983, for the period April 7, 1983, to June 30, 1983. [add as applicable: A one-time adjustment period payment shall be due on _____, for the period _____ to _____]. The assigned 3-month period, for purposes of payment and reporting of net kilowatt hours generated shall begin _____.

* * * * *

BILLING CODE 6450-01-M

NWPA-830G

U.S. DEPARTMENT OF ENERGY
Germantown, MD 20874

OMB No.: 1901-0260
Expires: 12/31/89

APPENDIX G - STANDARD REMITTANCE ADVICE FOR PAYMENT OF FEES

This information is being collected under mandatory authorities vested in the U.S. Department of Energy under Public Law 97-425. Late filing, failure to file or to otherwise comply with the instructions provided may result in interest penalties as provided by Article VIII.C of the Standard Contract for Disposal of Spent Nuclear Fuel and/or High Level Radioactive Waste.

For information concerning confidentiality of information see Item 6 of the instructions.

1.0 IDENTIFICATION INFORMATION

1.1 Purchaser Information
- (a) Name _____
- (b) Address _____
- (c) City, State & Zip Code _____

1.2 Contact Person
- (a) Name _____
- (b) Telephone (Include Area Code) _____

1.3 Standard Contract Identification Number: _____

1.4 Period Covered by this Remittance Advice
- (a) From _____ (Month/Day/Year) to _____ (Month/Day/Year)
- (b) Date of This Payment: _____ (Month/Day/Year)

2.0 SPENT NUCLEAR FUEL (SNF) FEE

2.1 Number of Reactors Covered _____

2.2 Total Purchaser Obligation as of April 7, 1983 $ _____

2.3 Date of First Payment:

Month	Day	Year

2.4 10-Year Treasury Note Rate as of the Date of First Payment _____ %

2.5 Unpaid Balance Prior to this Payment $ _____

2.6 Option Chosen _____

2.7 Fee Data
- (a) Principal _____
- (b) Interest _____
- (c) Total Spent Nuclear Fuel Fee Transmitted with this Payment $ _____

3.0 FEE FOR NET ELECTRICITY GENERATED (MILLS PER KILOWATTHOUR, M/KWh)

3.1 Number of Reactors Covered: _____

3.2 Total Net Electricity Generated (Megawatthours) (Sum of Line 2.6 from All Annex A's) _____

3.3 Current Fee Rate _____ (M/KWh)

3.4 Total Fee for Net Electricity Generated (M/KWh) Transmitted with this Payment $ _____

4.0 UNDERPAYMENT/LATE PAYMENT (As notified by DOE)

Type of Payment (a)	Date of Notification (Month/Day/Year) (b)	DOE Invoice Number (c)	Date of Payment Transmittal (Month/Day/Year) (d)	Interest Paid (e)	Amount Transmitted (f)
4.1 SNF Underpayment					
4.2 Electricity Generation Underpayment					
4.3 TOTAL UNDERPAYMENT					
4.4 SNF Late Payment					
4.5 Electricity Generation Late Payment					
4.6 TOTAL LATE PAYMENT					

5.0 OTHER CREDITS CLAIMED (Attach Explanation)

Enter the Total Amount Claimed for All Credits $ (_____)

6.0 TOTAL REMITTANCE

- 6.1 Total Spent Nuclear Fuel Fee Transmitted (from 2.7(c)) $ _____
- 6.2 Total Fee for Net Electricity Generated (from 3.4) $ _____
- 6.3 Total Underpayment (from 4.3(f)) $ _____
- 6.4 Total Late Payment (from 4.6(f)) $ _____
- 6.5 Total Credits (from 5.0) $ _____
- 6.6 TOTAL REMITTANCE (Sum of 6.1 through 6.4 less 6.5) $ _____

7.0 CERTIFICATION

I certify that the Total Remittance is true and accurate to the best of my knowledge

Name Date Signature

TITLE 18 USC 1001 makes it a crime for any person to knowingly and willfully make to any department or agency of the United States any false, fictitious, or fraudulent statements as to any matter within its jurisdiction.

Copy Distribution: White, DOE-Controller; Canary, DOE-OCRWM; Pink, DOE-EIA; Goldenrod, Utility Copy

DEPARTMENT OF ENERGY
Germantown, MD 20874
APPENDIX G - STANDARD REMITTANCE ADVICE FOR PAYMENT OF FEES

General Information

1. Purpose.
Standard Remittance Advice (RA) form is designed to serve as the source document for entries into the Department's accounting records to transmit data from Purchasers concerning payment of their contribution to the Nuclear Waste Fund.

2. Who Shall Submit.
The RA must be submitted by Purchasers who signed the Standard Contract for Disposal of Spent Nuclear Fuel and/or High-Level Radioactive Waste. Submit Copy 1, 2, and 3 to DOE, Office of the Controller, Special Accounts and Payroll Division and retain Copy 4.

3. Where to Submit.
Purchasers shall forward completed RA to:

U.S. Department of Energy
Office of the Controller
Special Accounts and Payroll Division (C-216 GTN)
Box 500
Germantown, MD 20874-0500

Request for further information, additional forms, and instructions may be directed in writing to the address above or by telephone to (301) 353-4014.

4. When to Submit.
For electricity generated on or after 4-7-83 fees shall be paid quarterly by the Purchaser and must be received by DOE not later than the close of business on the last business day of the month following the end of each assigned three month period. Payment is by electronic wire transfer only.

5. Sanctions.
The timely submission of RA by a Purchaser is mandatory. Failure to file may result in late penalty fees as provided by Article VIII.C of the Contract for Disposal of Spent Nuclear Fuel and/or High-Level Radioactive Waste.

6. Provisions Regarding the Confidentiality of Information.
The information contained in these forms may be (i) information which is exempt from disclosure to the public under the exemption for trade secrets confidential commercial information specified in the Freedom of Information Act of 5 USC 522(b) (4) (FOIA) or (ii) prohibited from public release by 18 USC 1905. However, before a determination can be made that particular information is within the coverage of either of these statutory provisions, the person submitting the information must make a showing satisfactory to the Department concerning its confidential nature.

Therefore, respondents should state briefly and specifically (on an element-by-element basis if possible), in a letter accompanying submission of the form why they consider the information concerned to be a trade secret or other proprietary information, whether such information is customarily treated as confidential information by their companies and the industry, and the type of competitive hardship that would result from disclosure of the information. In accordance with the provisions of 10 CFR 1004.11 of DOE's FOIA regulations, DOE will determine whether any information submitted should be withheld from public disclosure.

If DOE receives a response and does not receive a request, with substantive justification, that the information submitted should not be released to the public, DOE may assume that the respondent does not object to disclosure to the public of any information submitted on the form.

A new written justification need not be submitted each time the NWPA-830G is submitted if:

a . views concerning information items identified as privileged or confidential have not changed and

b . a written justification setting forth respondent's views in this regard was previously submitted.

In accordance with the cited statutes and other applicable authority, the information must be made available, upon request, to the Congress or any committee of Congress, the General Accounting Office, and other Federal agencies authorized by law to receive such information.

INSTRUCTIONS FOR COMPLETING STANDARD REMITTANCE ADVICE FOR PAYMENT OF FEES

Section 1.0 *Identification Information*

1.1 Name of Purchaser as it appears on the Standard Contract, the mailing address, state and zip code.

1.2 Name and telephone number of person responsible for the completion of this form.

1.3 Standard Contract identification number as assigned by DOE.

1.4 Period covered by this advice and date of this payment. Any period different from the assigned three month period should be explained on a separate attachment.

Section 2.0 *Spent Nuclear Fuel (SNF) Fee*

2.1 Enter the number of reactors for which the Purchaser had irradiated fuel as of midnight between 6/7 April 1983 (equal to the number of Annex B Forms attached).

2.2 Total amount owed to the Nuclear Waste Fund for spent fuel used to generate electricity prior to April 7, 1983. (See Annex B for calculation.)

2.3 Self explanatory.

2.4 Ten year Treasury Note rate on the date the payment is made, to be used if payments are being made using the 40 quarter option, or if lump sum payment is made after June 30, 1985.

2.5 Unpaid balance before this payment is made.

2.6 Enter the payment option (1, 2, or 3) chosen. The selection of payment option must be made within two years of Standard Contract execution.

2.7 Total payment of fee which this advice represents. Show principal, interest, and total.

Section 3.0 *Fee for Net Electricity Generated (M/KWh)*

3.1 Enter the number of reactors the Purchaser is reporting on during this reporting period.

3.2 Enter total net electricity generated during the reporting period from all reactors being reported. This is the sum of Station Total figures of line 2.6 from all Annex A forms attached, expressed in megawatthours.

3.3 Current Fee Rate as provided by DOE (initially 1.0 M/KWh which is equal to 1.0 $/MWh).

3.4 Total Fee for Net Electricity Generated (M/KWh) represented by this advice.

Section 4.0 *Underpayment/Late Payment (as notified by DOE)*

4.1-4.6 Self explanatory.

Section 5.0 *Other Credits Claimed*

Represents all items for which a Purchaser may receive credit, as specified in the Standard Contract.

Section 6.0 *Total Remittance*

6.1-6.6 This section is a summary of the payments made in the previously mentioned categories with this remittance.

Section 7.0 *Certification*

Enter the name and title of the individual your company has designated to certify the accuracy of the data. Sign the "Certification" block and enter the current date.

NWPA-830G

OMB No.: 1901-0260
Expires: 12/31/89

ANNEX A
to
APPENDIX G
Standard Remittance Advice for Payment of Fees

- Please read all instructions before completing form.
- Complete a separate Annex A for each station.
- Submit Annex A's quarterly with Appendix G—Standard Remittance Advice for Payment of Fees.

1.0 Identification Information

1.1 Purchaser Information
(a) Name _____
(b) Address _____
(c) City, State and Zip Code _____
(d) Utility ID number ☐☐

1.2 Contact Person
(a) Name _____
(b) Telephone (Include area code)
_____

1.3 Station Name
_____

1.4 Standard Contract Identification Number
_____

1.5 Period Covered
(a) From _____ (Month/Day/Year) to _____ (Month/Day/Year)
(b) Date of this submission: _____ (Month/Day/Year)

2.0 Fee Calculation for Net Electricity Generated

	Unit 1	Unit 2	Unit 3	Station Total
2.1 Unit ID Codes				
2.2 Gross Thermal Energy Generated (MWh)				
2.3 Gross Electricity Generated (MWh)				
2.4 Nuclear Station Use While At Least One Nuclear Unit Is In Service* (MWh)				
2.5 Nuclear Station Use While All Nuclear Units Are Out Of Service* (MWh)				
2.6 Net Electricity Generated (MWh) (Item 2.3 minus Item 2.4)				
2.7 Current Fee Rate (mills/KWh = $/MWh)				
2.8 Current Fee Due (Dollars) Enter on Line 3.4 of Appendix G				

*Utilities unable to meter individual unit use shall report estimated unit use and shall explain in a footnote how the unit data were estimated.

INSTRUCTIONS FOR COMPLETING ANNEX A TO APPENDIX G -- STANDARD REMITTANCE ADVICE FOR PAYMENT OF FEES

Section 1.0 *Identification Information*

1.1 Utility name, address, and ID number. The ID number is assigned by DOE.

1.2 Contact person for additional information on data submitted in this annex.

1.3 Station name. Enter the name of the Station covered in this annex.

1.4 Self-explanatory.

1.5a The dates shown should be the beginning and ending days of the reporting period for which electrical output is reported.

1.5b Self-explanatory.

Section 2.0 *Fee Calculation for Net Electricity Generated*

2.1 Unit ID Code: Enter the reactor unit identification (ID) code as assigned by DOE, one per column, for each reactor associated with this station.

2.2 Gross Thermal Energy (Generated (MWh). The thermal output of the nuclear steam supply system during the gross hours of the reporting period, expressed in megawatthours.

2.3 Gross Electricity Generated (MWh).

Utilities shall report Gross Electricity Generated for each unit in the appropriate column and shall report the total in the column labeled "Station Total." The Gross Electricity Generated is measured at the output terminals of the turbine generator during the reporting period, expressed in megawatthours.

Note: Utilities that have small quantities of unmetered non-nuclear electrical generation included in Gross Electricity Generated should see Note D, Item 2.4.

2.4 Nuclear Station Use While At Least One Nuclear Unit Is In Service (MWh).

Utilities shall report Nuclear Station Use While At Least One Nuclear Unit Is In Service data for each unit in the appropriate column, and shall report the total in the column labeled "Station Total." In this row, utilities are to report the consumption of electricity by the nuclear portion of the station during days in which at least one of the nuclear units at the station was on-line and producing electricity, expressed in megawatthours. Utilities unable to meter inidividual unit use shall report estimated unit use and shall explain in a footnote how the unit data were estimated.

Note:

A. During days in which nuclear station use exceeds nuclear station generation, utilities shall treat all resulting negative values as zero for fee calculation purposes.

B. Utilities that have multiple nuclear units at one station:
- when at least one nuclear unit is operating and when generation from that one unit exceeds the nuclear station's use, the utility may assume that the operating unit is supplying electricity for nuclear station use, whether or not the electricity has been metered separately or the units terminate to a common electrical busbar, and
- shall report under Item 2.5 any electricity use by the nuclear portion of the station during days in which all nuclear units at the station were out of service simultaneously.

C. Utilities that have a metered transmission line connecting an off-station nuclear reactor with another nuclear station may treat the off-station plant as part of this station for fee calculation purposes and report accordingly.

D. Utilities may deduct small quantities of unmetered non-nuclear electricity generation included in Gross Electricity Generated, provided they identify and explain the generation estimates in a footnote.

2.5 Nuclear Station Use While All Nuclear Units Are Out Of Service (MWh).

Utilities shall report Nuclear Station Use While All Nuclear Units Are Out Of Service data for each unit in the appropriate column, and shall report the total in the column labeled "Station Total." In this row, utilities shall report the consumption of electricity by the nuclear portion of the station during days in which total nuclear unit use exceeds nuclear generation (e.g., a day in which all nuclear units at the station were out of service simultaneously), expressed in megawatthours. Utilities unable to meter individual unit use shall report estimated unit use and shall explain in a footnote how the unit data were estimated.

2.6 Net Electricity Generated (MWh).

Utilities shall report Net Electricity Generated data for each unit in the appropriate column, and shall report the total in the column labeled "Station Total." Utilities shall report the gross electrical output produced by a civilian nuclear power reactor measured at the output terminals of the turbine generator minus the normal onsite nuclear station service loads during the time electricity is being generated, expressed in megawatthours (Item 2.3 minus Item 2.4).

2.7 Current Fee Rate (mills/KWh = $MWh). Initially 1.0 mills/KWh or 1.0 dollars/MWh. The units mills/KWh are exactly equivalent to dollars/MWh. Enter the rate here and on line 3.3 of the Remittance Advice.

2.8 Current Fee Due (dollars). The product of Items 2.6 and 2.7. The Current Fee Due for this station must be added to the Current Fee Due for all other reactors operated by the Purchaser and the sum entered on line 3.4 of the Remittance Advice.

[FR Doc. 87-21583 Filed 9-17-87; 8:45 am]
BILLING CODE 6450-01-C

Federal Register

Friday
September 18, 1987

Part IV

Department of the Interior

Fish and Wildlife Service

50 CFR Part 17

Endangered and Threatened Wildlife and Plants; Determination of Threatened Status for the Bay Checkerspot Butterfly (Euphydryas editha bayensis); Final Rule

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

Endangered and Threatened Wildlife and Plants; Determination of Threatened Status for the Bay Checkerspot Butterfly (Euphydryas editha bayensis)

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Final rule.

SUMMARY: The Service determines the bay checkerspot butterfly to be a threatened species. This butterfly subspecies occurred historically in isolated colonies, many of which have been eliminated as a result of drought, urban development, highway and road construction, livestock overgrazing, and other land use activities that altered the natural plant communities upon which it depends. Although recorded in the literature from more than 16 separate localities on the San Francisco Peninsula and adjacent outer Coast Range of California, only a few of the largest colonies, perhaps only two, retain habitat extensive enough now to permit survival through drought and other stresses predictable on a time scale of decades. This determination that the bay checkerspot butterfly is threatened implements the protection provided by the Endangered Species Act of 1973, as amended. The Service will defer designation of critical habitat for the bay checkerspot butterfly in order to complete the necessary economic analyses.

DATE: The effective date of this rule is October 19, 1987.

ADDRESS: The complete file for this rule is available for inspection, by appointment, during normal business hours at the U.S. Fish and Wildlife Service, Lloyd 500 Building, 500 N.E. Multnomah Street, Suite 1692, Portland, Oregon 97232.

FOR FURTHER INFORMATION CONTACT: Mr. Wayne S. White, Chief, Division of Endangered Species, at the above address (503/231–6131 or FTS 429–6131).

SUPPLEMENTARY INFORMATION:

Background

The bay checkerspot butterfly (*Euphydryas editha bayensis*) was described by Sternitzky (1937) as a race on the basis of its physical characteristics. Dos Passos (1964) and all subsequent published treatments recognize the bay checkerspot as a distinct subspecies. It has been the subject of extensive research by Dr. Paul R. Ehrlich and his associates at Stanford University and colleagues elsewhere since 1959. The butterfly's distribution, behavior, ecology, and population dynamics are relatively well-understood.

Euphydryas editha bayensis is a medium-sized butterfly with a wingspan of between 1½ inches (38 mm) and 2¼ inches (56 mm). The forewings have black bands along all the veins on the upper wing surface, which contrast sharply with bright red and yellow spots. The black basal coloration gives a more decidedly checkered appearance than in other subspecies such as the smaller *E. e. wrighti* of Southern California, or the montane *E. e. editha* (Sternitzky 1937). *E. editha bayensis* is typically darker than *E. e. luestherae* and lacks a relatively uninterrupted red band demarking the outer wing third (Murphy and Ehrlich 1980), but the bay checkerspot is not as dark overall and has brighter red and yellow colors than *E. e. insularis* (Emmel and Emmel 1975).

All habitat of the bay checkerspot butterfly exists as isolated islands of native grassland on shallow serpentine-derived or similar soils that support abundant growth of the butterfly's two larval foodplants, annual plantain (*Plantago erecta*) and the hemiparasitic annual owl's clover (*Orthocarpus densiflorus*). Presence of both foodplants is evidently required for successful completion of the bay checkerspot's life cycle in nature (Singer 1971, Ehrlich et al. 1975).

The bay checkerspot's known and likely habitat is considered here under three general categories. Primary habitat occurs directly on outcrops of serpentine (geologically identified as mesozoic ultrabasic intrusive rock) larger than about 800 acres. Large and topographically diverse areas of habitat appear to insure survival against drought stresses that occur predictably several times in each century. These large areas function as primary population reservoirs. Only four such areas appear on geologic maps within the butterfly's known range, and only two now support colonies of significant size. Secondary, or "satellite," habitat islands are smaller serpentine outcrops with native grassland typically capable of developing robust bay checkerspot colonies in years of favorable climate when the habitat is relatively undisturbed. Wet years often correlate with population declines, and severe drought has been observed to cause local extirpation of such satellite colonies. Extirpation of satellite colonies is likely on a time scale of decades. Following local extirpation, satellite habitat is thought to be recolonized naturally from neighboring "reservoir" colonies, if other surviving colonies exist within a few miles. A third habitat category consists of areas where both foodplants occur on other soil types similar to those derived from serpentine. All such tertiary habitat found has been located on areas mapped geologically as the Franciscan formation. Strong seasonal variation in numbers of individuals characterize populations in this kind of habitat, and they seldom support dense populations, evidence that this habitat category contributes only marginally to long-term survival of the species, providing only temporary recruitment of individuals and possible stepping stones for colonization.

Habitat difficulties faced by the bay checkerspot butterfly can be summarized as: (1) Permanent loss of more than half of its primary habitat, with two out of the four primary habitat sites believed large enough to function as population reservoirs; (2) present extirpation from about 29 of 32 probable and 5 of 8 known secondary habitat areas, with permanent loss through habitat modification of at least half of such secondary habitat areas; and (3) recent probable extirpation from at least 5 of 6 known areas of marginal habitat and more than 9 likely such areas.

Natural recolonization appears to be a very rare event. For example, in 21 years of study with marked populations less than four miles apart at Woodside and Jasper Ridge, translocation of a single individual from one colony to the other was observed only once (Murphy and Ehrlich 1980). Because the number of habitat islands potentially available to the butterfly continues to decline as a result of habitat modification, and the distance between suitable sites is thus increasing, the actual likelihood of natural recolonization is approaching zero.

On October 21, 1980, the Service was petitioned by Drs. Bruce O. Wilcox, Dennis D. Murphy, and Paul R. Ehrlich to list the bay checkerspot butterfly as an endangered species. The petition was later supplemented with a letter and other materials received on December 11, 1980. The Service included the bay checkerspot butterfly in a **Federal Register** Notice of Review on February 13, 1981 (46 FR 43709). A review of its status was made to determine if it should be added to the U.S. List of Endangered and Threatened Wildlife. On October 13, 1983, the Service found the proposed listing to be warranted but precluded by other pending listing actions, and reported this finding in the **Federal Register** on January 20, 1984 (49 FR 2485). On September 11, 1984, the

Service published a proposed rule to list the bay checkerspot butterfly as an endangered species and determine its critical habitat (49 FR 35665), which constituted a final petition finding affirming that the petitioned action was warranted.

A public hearing regarding the proposed rule was held on November 13, 1984, in San Mateo County, California. The comment period had been scheduled to close on November 13, 1984, but was extended on October 26, 1984 (49 FR 43076), until November 23, 1984. It was reopened on March 14, 1985 (50 FR 43076), at the request of lawyers for United Technologies Corp. It was reopened again on August 12, 1985 (50 FR 32455), to avail the Service of complete and current information, and reopened a third time on September 13, 1985 (50 FR 37391), because information and reports prepared by Dr. Richard Arnold and formally submitted to the Service on behalf of United Technologies Corp. indicated a substantial scientific disagreement regarding the sufficiency and accuracy of available data supporting the listing. On July 2, 1986, the comment period was reopened a fourth and final time (51 FR 24178) to meet with Dr. Murphy and representatives of United Technologies Corp. and others, to clarify information on alleged new populations of the bay checkerspot butterfly from San Luis Obispo, and San Benito Counties, California.

The testimony recorded at the public hearing and all written comments received by the close of the comment period on November 13, 1984, and meeting of July 16, 1986, and all written comments received by the close of the last comment period on August 1, 1986, are part of the public record and have been carefully considered in the drafting of this final rule. The Service has also considered the findings of a panel of scientists asked to address the sufficiency and accuracy of available taxonomic information. As a result of this extensive consideration, the Service determines that the bay checkerspot is a threatened species. Pursuant to section 4(b)(6)(C)(ii) of the Endangered Species Act, as amended, the Service determines that critical habitat is not now determinable. The Service is completing its analyses of potential critical habitat in accordance with sections 4(a)(3)(A) and 4(b)(2), and intends to designate critical habitat for the bay checkerspot butterfly when these analyses are complete.

Summary of Comments and Recommendations

In the September 11, 1984, proposed rule (49 FR 35665) and associated notifications, all interested parties were requested to submit factual reports or information that might contribute to the development of a final rule. Appropriate State agencies, county and city governments, Federal agencies, scientific organizations, and other interested parties were contacted and requested to comment.

On July 25, 1984, Mr. Paul Koening, Department of Environmental Services, County of San Mateo, requested a public hearing on the proposal to list the San Mateo thornmint, which was published June 18, 1984 (49 FR 24906). After discussions with the County and other interested agencies and individuals, the Service decided to hold a combined public hearing for the thornmint and bay checkerspot proposals. Notification of the combined public hearing was published in the **Federal Register** on Friday, October 26, 1984 (49 FR 43076). Notifications of the proposed listing of the bay checkerspot butterfly and the public hearing of November 13, 1984, were published in the following local newspapers: *San Jose Mercury News* on October 31, 1984, *San Francisco Chronicle/Examiner* on October 28, 1984, *Palo Alto Times* on October 30, 1984 and the *San Mateo Times and News Leader* on October 30, 1984. Written notifications also were sent to State, local and Federal agencies, and to interested individuals and organizations.

On November 13, 1984, the Service held a public hearing at the Hillsdale Inn in San Mateo County, California, on the proposals to list the San Mateo thronmint and bay checkerspot butterfly as endangered species and to designate critical habitat for the butterfly. Approximately 120 people attended the hearing. The comment period closed on November 23, 1984, but was reopened on March 14, 1985, August 12, 1985, September 13, 1985, and again on July 2, 1986. An open meeting was held in Sacramento on July 16, 1986, during the final open comment period. Approximately 15 people attended the meeting and five presented oral comments. Notification of this meeting was made in the **Federal Register** (51 FR 24178) and by letter to those individuals submitting previous comments. The last comment period closed on August 1, 1986.

Comments from the public hearing of November 13, 1984, and meeting of July 16, 1986, as well as written comments have been carefully considered in preparing this final rule. Public comments were received during the period from September 11, 1984, to August 1, 1986. During that time 37 oral and 95 written comments were received from various individuals, organizations, and government agencies. Of those, 35 were additional comments by persons who had commented at least once before. Among persons who expressed opinions, four opposed what they feared was premature listing, 24 others either opposed listing altogether or at least to the extent that they expected it to interfere with planned or ongoing activities, nine expressed confidence that all apparent conflicts threatening survival of the butterfly could be resolved, 59 expressed belief in a need for Federal listing of the butterfly, and eight gave no clear indication of their opinion in regard to listing. In the following discussion, comments related primarily to habitat of the butterfly are considered only as they relate to threats and the butterfly's status for listing, and not as they relate to possible exclusion or inclusion of certain areas as critical habitat or to possible economic consequences of critical habitat designation. As mentioned, the Service is deferring the critical habitat designation until a later time.

Three principal subject areas of comments that relate to the butterfly's status are; (1) Scientific definition of the subspecies, (2) adequacy of the distribution data, and (3) threats to habitat from various activities and projects. Only a minor threat is believed to exist from overutilization of individuals by collectors, and it was not a subject of significant comment. This section of the rule will summarize and discuss these three subject areas in order, followed by mention of some general comments from agencies and organizations, and end with a summary of comments that criticized the Service's adherence to rulemaking procedures.

Six of the comments questioned the rationale for listing a butterfly only experts could identify. One suggested that the bay checkerspot is one of the most plentiful of all butterflies. Several comments indicated belief that the designation was inappropriate because the bay checkerspot is a subspecies and the Act was designed to protect full species.

The Service replies that the term "species," pursuant to section 3(16) of the Endangered Species Act, includes any species or subspecies of fish, wildlife, or plants, and any distinct population segment of any species of vertebrate fish or wildife that interbreeds when mature. The bay

checkerspot butterfly (*Euphydryas editha* subspecies *bayensis*) qualifies as a "species" under the Act. Its taxonomic status is recognized in all the major treatments in the scientific literature, and the Service has found no alternative taxonomic treatments that controvert this conclusion.

Lawyers for United Technologies Corp., on the basis of analyses prepared for them under contract by the entomologist Dr. Richard A. Arnold, submitted four sets of comments in 1985, all emphasizing a claim that the subspecies *E. e. bayensis* is not defined in a way that would limit it to the geographic range indicated in the proposed rule. Their comments on May 16 and June 26 claimed the Service had failed to demonstrate that a separate subspecies eligible for listing exists. In a November 11 comment letter, they modified that position somewhat, and made it clear that they did not question the separateness of the bay checkerspot subspecies, but rather its "definition." Their comments incorporated a letter from Dr. Arnold dated November 7, 1985, in which he suggested that two checkerspot colonies known from coastal grassland areas of Santa Barbara and San Luis Obispo Counties, as well as other populations of *E. editha* in the outer coast range north of San Francisco Bay, might be more properly classified as *E. e. bayensis*.

In the November 7 letter, and also in previous comments, Dr. Arnold's argument placed strong and selective emphasis on the use by Drs. Ehrlich and Murphy in their original petition and subsequent comments, and by Dr. Murphy in one publication (1982), of genetic (specifically enzyme biochemistry) information, as well as ecotypic (specifically foodplant and habitat type) information to supplement the conventional phenotypic (features of appearance) information. The Service accepted his position as evidence for substantial scientific disagreement in the matter, and asked four of its own scientists to conduct a panel evaluation of *Euphydryas* systematics as they might affect *E. e. bayensis* on these particular claims.

The Service notes that Murphy (1982) used a lack of clear-cut enzymatic differentiation, taken together with consistent habitat ecotype (chaparral), foodplant (typically *Pedicularis densiflora*) and general phenotypic (or phenetic) similarity to reclassify certain populations of checkerspots formerly treated as *E. e. baroni*, assigning them to *E. e. Luestherae*. Dr. Murphy's use is somewhat different from the one advocated by Dr. Arnold for a reported lack of clear-cut enzymatic differentiation between *E. e. bayenis* and isolated grassland checkerspot colonies found in Santa Barbara and San Luis Obispo Counties. Dr. Arnold's usage implies that such a lack of enzymatic differentiation should in effect enlarge the subspecific definition, and outweigh other observable phenotypic or behavioral differences.

Dr. Peter F. Brussard of Montana State University, who conducted much of the enzyme electrophoretic work cited by the petitioners and by Dr. Arnold in this context, provided some specifics and his opinion in a letter of comment dated August 21, 1985. He stated that electrophoretic analysis conducted subsequent to the studies on which statements made in the petition were based show mainly that enzyme variation from year to year is quite large in this genus, effectively masking any normal subspecific variability that may be present. The net effect, he stated, is a severe limitation on the taxonomic utility of enzyme electrophoresis as a basis for any decisions about distinctiveness or nondistinctiveness of any *Euphydryas* populations.

In their original petition, the petitioners suggested that the checkerspot colonies on grassland in Santa Barbara and San Luis Obispo Counties represented isolated intermediates or intergrades between *E. e. bayensis* far to the north and *E. e. wrighti* of southern California. Emmel and Emmel (1975), in describing the subspecies *E. e. insularis*, had characterized coastal *E. editha* found in those counties as "near" *E. e. bayensis*, a common taxonomic usage that implies kinship but does not merge it with a named entity. In a letter of comment dated November 5, 1985, Drs. Ehrlich and Murphy stated that they consider the mainland colonies in question actually assignable to *E. e. insularis*.

Dr. Arnold's comments of November 7, 1985, further stated that Murphy (1982) had left unresolved which subspecific name to apply to Outer Coast Range populations of the species from north of San Francisco. This comment also recalled a 1981 mention by Dr. Raymond White in a letter to the Service of a note by Doudoroff (1935) reporting some seasonal division of the checkerspot butterfly flight period in Napa County near Calistoga. Dr. White interpreted this as possible evidence of a former bay checkerspot colony, subsequently extirpated.

The Service responds that this comment neglected to mention that the only such populations Murphy (1982) considered to still exist, other than those of the redefined *E. e. baroni*, were from the extreme north of Mendocino County. Murphy (1982) did state that he considered their affinities to probably lie with populations in Oregon that use a different larval foodplant than *E. e. bayensis*, and "which may be" referable to *E. e. taylori*. Doudoroff's (1935) note antedated the 1937 description of *E. e. bayensis*, of course, but did not specify anything about morphology or habitat, and mentioned no voucher specimens. Since Dr. Doudoroff's note did not account for another checkerspot butterfly species that was probably present, and because serpentine chaparral rather than grassland predominates in that area, this note must be considered very doubtful as evidence for including Napa County in the former range of the bay checkerspot butterfly.

Drs. Arnold, Ehrlich, and Murphy, using the medium of letters of comment on this rule, engaged in an argumentative exchange in respect to taxonomic philosophy and motives for making various statements. Much of the exchange pertained to Dr. Arnold's published analysis of variation in another butterfly species (one conclusion of his paper was that no one, including himself, had found features to reliably distinguish subspecies in that taxon). Although the discussion is part of the public record, the Service did not find it specifically relevant to the present consideration. One letter of comment from a journal editor also concerned itself primarily with that debate and with the validity of subunits in another species.

Under the second subject of comments stated above, the accuracy of existing distributional data, the County of San Mateo and four individuals commenting on the proposal indicated belief that there has been insufficient effort to locate additional bay checkerspot colonies. The lawyers' comments for United Technologies cited above follow a logical course from the effort to include widely separated populations within the subspecific scope of the bay checkerspot butterfly, to a listing of available reasons for doubt about the completeness of the existing data. Their comments also follow leads established in Dr. Arnold's analyses and discuss a number of other letters of comment. The detailed exposition has as themes the wide and plentiful distribution of serpentine rock outcrops in California, and a claim for recent discovery of six bay checkerspot butterfly populations in the preceding two years, of which the centerpiece is the large colony near Morgan Hill.

The Service responds that except for discovery of the Morgan Hill colony, which exists in a very large area of private property that is mostly to trespass and that was indeed unknown to the petitioners at the time of original petition, a review of several related factors that United Technologies' comments did not address gives an entirely different perspective. First, there is a critical distinction between serpentine rock outcrops that support native grassland and the more numerous ones that support chaparral (and other subspecies of checkerspot butterflies, if any). An article on California serpentine by Kruckeberg (1984), submitted as an exhibit to one of Dr. Arnold's letters, devoted considerable attention to serpentine chaparral, but gave only passing mention to serpentine grassland, citing Jasper Ridge as its primary example. Even at Jasper Ridge there is a considerable amount of chaparral, which does not support the bay checkerspot butterfly (Ehrlich 1965). Second, a significant interruption in Outer Coast Range serpentine outcrops likely to support the required grassland habitat type begins near the line between Santa Clara and Santa Cruz Counties and extends southward along the Outer Coast Range. It figures prominently in the geological maps submitted to illustrate the wide distribution of serpentine occurrences. Third, two others of the six "new bay checkerspot populations" are based on assignment of two previously known and reported colonies of uncertain taxonomic status in southern California to *E. e. bayensis* in accordance with Dr. Arnold's interpretation of the species' taxonomy. The remaining three may or may not be colonies able to persist; one exists on a very small remnant of a formerly extensive habitat near San Mateo, and two were recorded as occurrences on small serpentine outcrops in the vicinity of the largest colony near Morgan Hill.

The Service accepts one implication of the foregoing comments, that undiscovered colonies or stray individuals of the bay checkerspot butterfly may be found in the future at various locations in the bay area, or indeed may establish themselves in the vicinity of the two remaining reservoir populations. Dr. Arnold's explorations in 1985 provided useful additional data, and it was appropriate for him to concentrate his search in areas of serpentine outcrops supporting grassland habitat. His report of overgrazing observed on most of them is discouraging from a viewpoint of long-term protection of butterfly habitat. Most discouraging is the lack of any additional large serpentine outcrops supporting grassland habitat. Even more significant, though, is a lack of any additional serpentine grassland left to search within the known or probable range of the subspecies.

Lawyers for United Technologies raised a number of issues in a letter of comment dated July 31, 1986, which will be treated below. Many of those issues related to information brought forward for the record during the public meeting of July 16, 1986. A primary concern was evidently discovery of two previously unreported checkerspot (*E. editha*) populations well to the south of the Bay area, one in San Luis Obispo County, found by Dr. Richard Arnold, and one in San Benito County, found by Dr. Dennis Murphy.

The July 31 letter restated an earlier claim that the taxonomy of these southern checkerspot populations, and, by extension, the taxonomy of the bay checkerspot, *E. editha bayensis*, is not yet resolved. The Service agrees that subspecific taxonomy of *E. editha* collected from areas south of Santa Clara County needs further elucidation. However, the subspecific name *bayensis* was apparently not applied to such specimens, despite ample opportunities to do so, before the issue of possible listing for this taxon was raised.

The July 31 comment letter claims further that the Service refused to consider the taxonomic status of southern *E. editha* colonies in determining whether the bay checkerspot butterfly is endangered. On the contrary, the Service received and considered information from the area, some of it in published form, but concluded after due consideration that the kind of monographic taxonomic work that is clearly needed to resolve all the existing uncertainties is simply not available now. Some specific examples of facts, ideas, and opinions that the Service considered follow.

A colony of *E. editha* utilizing at least one of the bay checkerspot's two obligate foodplants was mentioned by Singer (1971) and McKechnie *et al.* (1975) to exist in San Luis Obispo County near Madonna Inn, not far from one of Dr. Arnold's newly reported colonies (whose foodplant is unknown). Similarly, Emmel and Emmel (1975) illustrated a specimen they identified as "near *bayensis*" from Monterey County, closer than any other known grassland colony to Dr. Murphy's newly reported colony in San Benito County. Geographically close colonies are apt to be closer phylogenetically than are ones farther apart, other factors being equal.

A different vernacular name, "coastal checkerspot" was applied by Emmel and Emmel (1973) to a number of these southern entities otherwise identified only as "near *bayensis*." Emmel and Emmel (1975), however, did not explore possible relationships of these southern entities to either *E. e. insularis*, a subspecies they described, or to *E. e. bayensis*. Subsequently, colonies mentioned by Emmel and Emmel (1973) from sands in Santa Barbara County were indicated to be ecologically different from *E. e. bayensis* (Ehrlich and Murphy 1981), and a colony near Pozo, San Luis Obispo County, was indicated by Murphy (1982) to represent the serpentine chaparral form, *E. e. luestherae*.

At the July 16, 1986, hearing, Dr. Arnold asserted that the butterflies located in San Luis Obispo County appeared to be bay checkerspots because of the favorable comparison to descriptions in scientific literature and specimens in reference collections. Dr. Arnold also indicated that both essential food plants were present at the San Luis Obispo population sites. (Hearing transcript at 13.) He noted, however, that statistical measurements were not done for butterflies collected from San Luis Obispo County (hearing transcript at 14), and that he had not seen any butterflies from the "near *bayensis*" samples to compare them to bay checkerspot specimens. (Hearing transcript at 22.) Dr. Dennis Murphy, one of the petitioners for this action, professed no knowledge of the existence of bay checkerspots between the Morgan Hill colony and San Luis Obispo County. He noted that serpentine grasslands are rare in the areas between these populations, and that the distance between these checkerspot colonies is several orders of magnitude greater than any recorded movement of bay checkerspot butterflies. Dr. Murphy further noted that the areas in between the Morgan Hill colony and the San Luis Obispo County population generally include unsuitable habitat, and that the populations are effectively isolated by a wall of chaparral. (Hearing transcript at 41.) Noting first that it is generally accepted that the San Benito County populations belong to the subspecies *luestherae*, Dr. Murphy speculated that an assignment of San Luis Obispo County populations to the subspecies *bayensis* would most probably involve a determination that the populations arose independently at habitat locations using the same host plants and involving the same color patterns, features which have yet to be established. (Hearing transcript at 42.) Consequently, a similar

appearance may have arisen between genetically distinct lineages on northern and southern grasslands through parallel or convergent changes instead of through migration and/or colonization from one grassland to another. Thus one or more populations resembling *bayensis* may, in fact, be separately derived. To treat similar but convergent entities as a single entity for convenience is contrary to accepted basic biological principles, and the Service would not knowingly do so. In the present case, evidence is insufficient to determine whether convergent evolution has occurred.

At the July 16, 1986, public hearing Dr. Arnold also raised a question concerning the alternative idea, already mentioned, that some of the southern colonies could represent genetic intermediates between named subspecies, which arose as a result of a previous contiguous or widespread distribution. Dr. Murphy conceded that habitat continuity may have been a possibility in the ecologically recent past. (Hearing transcript at 48.) The Service agrees that intermediate populations or clinal intergrades often are found where the ranges of adjacent subspecies approach one another (when such intermediates are lacking, specific rather than subspecific recognition is usually indicated). However, normal taxonomic usage does not require that any intermediates found must be allocated either to one subspecies or the other, but lets them be recognized simply for what they are. Furthermore, Dr. Murphy made the point that, even if the San Luis Obispo and San Benito County serpentine grassland populations were included within the subspecies *bayensis*, the subspecies as a whole would still be threatened in a significant portion of its range and listing would still be justified. (Hearing transcript at 44–45.) Noting that the taxonomy issue would not resolve the threats posed to the bay Checkerspot butterfly, Dr. Murphy observed that no one had taken the position that the San Luis Obispo populations would support the long-term survival of the bay checkerspot butterfly in a significant portion of its range. (Hearing transcript at 52.) The Service concurs that a listing determination is justified regardless of the taxonomic classification of the San Benito and San Luis Obispo County populations. Noting that the petitioners do not use subspecific classifications in their studies on checkerspot butterflies, Dr. Murphy indicated that their attention had been drawn to discrete populations that were historically referred to as *bayensis*. (Hearing transcript at 52–53.) Dr. Murphy indicated that the petitioners were not taxonomic experts of the checkerspot butterfly, and he reaised the question of whether any such experts really exist. (Hearing transcript at 54.)

Replacing the prevailing uncertain scientific opinions regarding identities of southern colonies with detailed evidence for relationships is a task for skilled biologists using the array of techniques available for phylogenetic investigation. Separation and identification of genetic lineages is time-consuming, tedious research. Acceptance and consensus among scientific peers requires additional review and time. As discussed below in the findings of the bay checkerspot butterfly review panel, the Service concludes on the basis of the best presently available scientific information that the known *E. editha* grassland populations from south of Santa Clara County are not bay checkerspot butterflies.

The July 31 letter of comment from United Technologies Corp. advocates that the Service must take responsibility for filling the existing gap of information about the southern checkerspot colonies and should "define" or commission to be "defined" some distinction between *E. e. bayensis* and "near *bayensis*," based on biological "criteria." The comment presents the standard of acting on "the best available scientific and commercial information" as a primary basis for the action advocated, namely that the Service withdraw the proposed rule to list the bay checkerspot as endangered, and refrain from protecting known colonies of *Euphydryas editha bayensis*. The Service responds that the Endangered Species Act does not redefine either species or subspecies, except to include subspecies within the concept of "species" in respect to its own provisions. Species and subspecies are biological entities, not "defined" by *criteria* but instead representing relationships among organisms, to be identified through a process of research and the reasoned exercise of scientific judgment. Such research seeks to arrive at taxonomic interpretations that best reflect current knowledge of biological relations among populations. To postpone protection for the known remnants of the bay checkerspot butterfly while all issues that may be relevant are researched does not accord with the Service's interpretation of the Endangered Species Act, and could result in elimination of that taxon from a very significant portion of any range ever likely to be established for it. The idea that the standard of "best available scientific or commercial information" could be used as a basis to delay protective actions otherwise needed is unsupportable.

The Service also wishes to acknowledge for the record the intensive search for "stepping stone" populations throughout the range of the species and the State of California reported by McKechnie *et al.* (1975). Those studies were conducted over many years by groups of experienced collectors from Stanford University and elsewhere in connection with projects to study quantitative gene flow and other biological features of this species (Brussard *et al.* 1974, Ehrlich 1965, 1979, Ehrlich *et al.* 1975, Ehrlich *et al.* 1980, Johnson *et al.* 1968, Murphy and Ehrlich 1980, White and Singer 1974). In attempting to actually measure gene flow, these researchers risked error to the extent that they were unable to locate all existing geographic links or stepping-stone colonies. The Service believes that the distribution data for *Euphydryas editha*, of all subspecies, are both generally accurate and reasonbly complete.

The Bay Checkerspot Butterfly Review Panel (1986) examined the relevant literature, and reviewed it in considerable detail. Its members reported unanimous agreement that *Euphydryas editha bayensis* is a valid subspecies whose description meets all the pertinent requirements of the International Code of Zoological Nomenclature, that it has been continuously recognized as a valid subspecies in all major works since its description, that its recognized populations considered together have phenotypic, geographic and ecological integrity, and that its currently recognized range (present and former) is in San Francisco, San Mateo, western Santa Clara, and Alameda Counties, California. They believed no other known populations should be included in the subspecies *E. e. bayensis*. On the basis of the best scientific information presently available, therefore, the Service accepts the recommendation of its scientific review panel.

The remaining subject of comments relating to status for listing (threats to bay checkerspot butterfly habitat from various human activities and projects) attracted by far the most attention and comment.

Three comments indicated that the bay checkerspot butterfly cannot be endangered if it survived farming, construction of an interstate highway, carbon monoxide poisoning from cars using that highway, repeated sprayings of malathion, destruction by off-road

vehicles, and years of intensive livestock grazing. Two comments opposed to the listing of the bay checkerspot butterfly stated that Interstate 280 destroyed hundreds of acres of serpentine outcrops and presumably many bay checkerspot butterflies and their larval host plants. The latter comments also noted that construction of Interstate 280 was vigorously supported by many of those now hoping to block development of a golf course at Edgewood Park.

The Service responds that, except for carbon monoxide, the factors referred to in these comments may have all contributed to the critical situation now faced by the bay checkerspot butterfly. The fact that the butterfly survives despite these many assaults on its habitat and populations cannot be construed as evidence for its immortality. Processes leading up to extinction happen over time, usually resulting from a combination of many factors and events. The butterfly survives now in a much depleted and highly vulnerable condition. Determination of threatened status relates to the application of the five factors identified in section 4(a) of the Endangered Species Act, any one of which may make a species eligible for listing. The five factors and their application to the bay checkerspot butterfly are presented in the section "Summary of Factors Affecting the Species." The elimination of former extensive serpentine grasslands as a result of the construction of Interstate 280 is well known. This is one of the activities contributing to the decline of the bay checkerspot identified in the original proposal.

One comment in opposition to the bay checkerspot listing stated that the Service merely assumes that modification of present bay checkerspot habitat would seriously reduce the size of the colonies and that habitat will be adversely modified by the various proposed projects. Another comment stated that the Service only assumes that a reduction in the size of the butterfly colonies would result from a severe, prolonged drought.

The Service responds that several developments are proposed or underway for the largest remaining habitats of the bay checkerspot butterfly. Many of those plans call for elimination and/or increased fragmentation of portions of the bay checkerspot's habitat. The Service also notes that the past detrimental effects of drought on bay checkerspot populations are well documented in the literature cited (Ehrlich et al. 1980, Ehrlich and Murphy 1981). The Service believes that these various factors and activities have the potential to contribute to significant further declines in an already severely depleted and geographically fragmented subspecies. Without measures to actively manage and enhance colonies of the bay checkerspot butterfly, the likelihood of its extinction will be increased significantly.

Only a few threats to the largest and therefore the most important habitat, near Morgan Hill, California, were described in comments. Lawyers for United Technologies Corp. evidently assumed that controlled burning there in continued conformance with Santa Clara County fire safety codes would pose a threat to the colony and automatically be prevented. They also mentioned a great number of activities involving the Federal Government, national security, and/or national defense that might be involved in threats to the colony at some future time. They criticized the Service for failing to list these aspects of the Morgan Hill proposed critical habitat in the proposed rule.

The Service responds that the comments and other available information regarding habitat on the property owned by United Technology Corp. indicate the colony there is numerically small and scattered on serpentine deposits having suboptimum conditions, but is otherwise in relatively good condition. The Service believes that the past activities conducted on the property, including limited grazing, and controlled burning outside of areas actually occupied by the butterfly, have presented no significant threats to the colony. Consultation with the Santa Clara County and San Jose City Planning Departments indicated that there are no plans for urban or commerical development on United Technologies property that would seriously alter the habitat. At present, all of the serpentine grassland habitat at Morgan Hill is zoned as open space. On that basis no specific threats were identified for United Technologies property actually occupied by the butterfly when the rule was proposed. The situation remains unchanged. Threatened status is appropriate for the bay checkerspot butterfly because, although the Morgan Hill site provides the largest remaining habitat for the butterfly, and a conservation agreement has been developed to help protect the species over about thirty percent of the habitat there, approximately seventy percent of the habitat remains in an uncertain, highly vulnerable status and could later be rezoned for development under the State zoning laws. Moreover, while it is the intent of the conservation agreement to restore habitat damaged by the landfill, through reconstitution of serpentine grassland and enhancement of carrying capacity on undisturbed habitat by intensive grazing controls or other artificial methods, the Service notes that the best-intentioned restoration and management programs for biological systems can and often do inadvertently sustain losses or otherwise fail to fully achieve their intended goals. Appropriate long-term assurances are provided in the Morgan Hill conservation agreement in case the restoration and management programs do not adequately minimize or compensate for adverse impacts from the landfill project.

Former U.S. representative Ed Zschau, the U.S. Air Force, the U.S. Navy, the Bureau of Reclamation, the Western Area Power Administration, the County of Santa Clara, the City of San Jose, United Technologies Corp., Pacific Gas and Electric Company, and Waste Management of California Inc. all expressed concern over the listing of the bay checkerspot butterfly as an endangered species and the proposed designation of critical habitat in the Morgan Hill area. Several expressed the hope that the Service would not list the species prematurely, without benefit of adequate study. Congressional and military concern was general, the correspondents expressing fears that activities at United Technologies Corp. vital to the national interest could conflict with the butterfly and possibly be affected by the listing or designation of critical habitat. The County of Santa Clara and United Technologies Corp. also questioned the inclusion of large areas of non-serpentine habitat in the description of critical habitat at Morgan Hill.

The Service refers these correspondents to its response to United Technologies Corp. above. Although the Service is not directly concerned in this final rule with designation of or exclusions from the proposed critical habitat, it also wants to elaborate to these correspondents the function of its regulations at 50 CFR 424.12, according to which the description in the proposed rule was made. Section 424.12(e) provides that if several sites, each satisfying the requirements for designation as critical habitat, are located in proximity to one another, an inclusive area may be designated. Section 424.12(c) directs the Service to use non-ephemeral reference points in making any designation. The informational function of such

designation is served best if the reference points can be located easily on maps and in the field. Inclusive references inform Federal agencies of critical habitat within, and are easily revised if better data, maps, or landmarks become available. Reports by Harvey and Stanley Associates (1983), Dibblee (1973), Soil Conservation Service (1974), and Dr. Dennis Murphy (pers. comm.) illustrate that the appropriate serpentine habitat near Morgan Hill is patchy and discontinuous in a generally linear band approximately 7,500 feet wide, extending from northwest to southeast between Metcalfe Road and Anderson Dam.

The Bureau of Reclamation, the Western Area Power Administration, the County of Santa Clara, and Pacific Gas and Electric Company were all concerned about a 115 kV transmission line proposed to cross the Morgan Hill habitat area between Metcalfe Substation and a planned Bureau of Reclamation pumping plant at Coyote, part of the San Felipe Project. The Bureau of Reclamation indicated that the Western Area Power Administration would address the impacts of this proposed action in the environmental documents being prepared for the project.

The Service responds that it is aware of this project and has been in communication with the Western Area Power Administration. Adequate planning and some design modifications have been implemented to avoid adverse impacts to the butterfly.

Waste Management of California, Inc. requested that the bay checkerspot butterfly be listed as threatened as opposed to endangered. The company developed and is now implementing a conservation agreement for the butterfly in conjunction with their landfill project in the Morgan Hill habitat area. This agreement is intended to off-set and compensate for the adverse impacts of Waste Management's landfill on the butterfly and its habitat. Waste Management believes that the implementation of this program decreases the threats to the species. Waste Management further requested that if threatened status were determined then special regulations be issued to authorize the incidental taking of butterflies for the landfill. Waste Management's representative also requested that the Service delay the designation of critical habitat in this area until the final habitat conservation program has been submitted to the Service.

The Service acknowledges the conservation agreement for the landfill and encourages such coordination efforts. The decision to change the listing status of the bay checkerspot butterfly from endangered to threatened is, in part, a result of the landfill agreement. However, the agreement *per se*, does not significantly change the status of the species as a whole, or benefit a majority of the species' distribution. The landfill will eliminate an estimated 6–10 percent of the low to moderate quality proposed critical habitat at Morgan Hill. The agreement commits Waste Management, or any of its assigns, responsibility to undertake species conservation activities and funding for 10 years, including managing grazing to enhance population levels and carrying capacity, developing and implementing methods for reestablishing and repopulating serpentine grassland habitat destroyed by the landfill, establishing butterflies in former habitat, and providing for habitat acquisition in the event the other measures prove unsuccessful or inadequate. As a consequence of the above, the Service issued a conference opinion that the conservation agreement was not expected to reduce appreciably the likelihood of survival and recovery of the bay checkerspot butterfly. Although this program does not substantially improve the status of the species as a whole, it does provide a significant legal mechanism that is expected to compensate for the adverse impacts of the landfill project. If further efforts were undertaken to manage the remainder of the Morgan Hill proposed critical habitat, the conservation of the species could be substantially advanced. A further discussion of why threatened status has been determined is provided in the section "Summary of Factors". The delay of critical habitat designation announced in this final rule is not a response to Waste Management's specific request.

With regard to Waste Management's request for special regulations to allow the take of the bay checkerspot butterfly if threatened status is determined, the Service acknowledges the availability of special regulations under section 4(d) of the Endangered Species Act, but finds in this situation special regulations are not necessary. The landfill activity has been covered by the incidental take statement in the Service's conference biological opinion, which will be evaluated for adoption as a final biological opinion after this listing becomes effective, provided there are no significant changes in the facts or the project design since the date of the conference opinion.

Three comments in favor of listing the bay checkerspot as an endangered species stated that the proposed sanitary landfill poses a significant threat to the butterfly. One also expressed concern that excavation at the landfill site would produce crysotile asbestos dust that could extend damage or adverse effects to areas well outside the actual landfill site and excavation area.

The Service concurs with the concerns expressed about asbestos dust, which has been an issue in other areas having the same soil type. The Service also is aware that the landfill itself could eliminate butterfly habitat, which relates more directly to the status of the species. The Service, in coordinating through the section 7 conference process with all parties involved in the development of the landfill site, has determined that careful and attentive implementation of Waste Management's habitat conservation program is not likely to reduce appreciably the survival and recovery of the bay checkerspot butterfly.

Since elimination of the large bay checkerspot butterfly colony at Woodside, the second largest area of primary habitat for the butterfly is in Edgewood Park in San Mateo County. A golf course and recreation facility proposed by the county for the park were identified as posing threats to this habitat in the proposed rule. The greatest number of individual comments, for and against listing this butterfly, related directly to the Edgewood Park habitat area.

An entomologist provided additional data on the bay checkerspot population numbers at Edgewood Park, indicating a dramatic decline since 1981 from more than 100,000 down to between 2,000 and 3,000 in 1984. He attributed the reductions in 1983 and 1984 to adverse weather conditions in 1982 and 1983. In 1985 the population was estimated at fewer than 1,000, in 1986 fewer than 500, and in 1987 the population remained at about 500 to 1,000 (Murphy, pers. comm., July 1987). The Service notes that the Edgewood population may now be considerably smaller than that needed for recovery and long-term population viability at this site.

A geologist who supported the proposed listing discussed the possible transmission of waters through the serpentine body at Edgewood Park. He expressed concern that golf course irrigation could enter the serpentine fracture system and resurface within or near bay checkerspot populations. He noted that this water could carry various chemicals such as insecticides, herbicides, and fertilizers from the nearby golf course and that such transmissions could inadvertently

damage or destroy the bay checkerspot population at Edgewood Park.

A licensed pest control operator, in support of listing the bay checkerspot butterfly, provided information on likely adverse effects of insecticide and herbicide applications for a golf course at Edgewood Park. He warned of that chemical drift could either kill the bay checkerspot outright and/or kill the butterfly's obligate host plants.

The County of San Mateo and 10 individuals expressed concern that listing the bay checkerspot butterfly would block the proposed golf course at Edgewood Park. Most of those commenting in this vein indicated that the Endangered Species Act is being used by local environmentalists to halt San Mateo County's recreation plans for Edgewood Park, specifically, the golf course development.

The Service responds that identifying and listing endangered or threatened species pursuant to the Endangered Species Act, as amended, is a requirement mandated by Congress. Furthermore, as noted by another comment, the Service must look *solely* to the best scientific and commercial information available when making a decision on a proposed listing of an endangered or threatened species under section 4 of the Endangered Species Act. Economic or other non-biological factors can not be considered in the listing decision. (See H.R. Conf. Rep. No. 835, 97th Cong., 2d Sess. 19 (1982).) In making its decision in this issue, the Service has relied solely upon the best available biological and commercial information. The Service recognizes that such listings may affect various State and local entities and planned and approved development proposals through the local planning process, even though Federal listings primarily affect Federal activities that may pose impacts to the bay checkerspot butterfly.

Twelve comments pointed out that the golf course as planned was designed to protect as much of the butterfly's habitat as possible. They further indicated that the golf course would not "wipe out" the butterfly and thus does not pose a threat. One comment stated that there is no basis for inferring that any future single event will cause the demise of the bay checkerspot butterfly. The County of San Mateo submitted a Specific Conservation Program that it believes can accommodate the golf course as well as protection of the butterfly.

The Service responds that the proposed golf course at Edgewood Park is only one of many activities and factors that may adversely affect the bay checkerspot butterfly. San Mateo County's Stage II Final Supplement to the Environmental Impact Report (1984) identified environmental effects of the proposed Master Plan for Edgewood Park, which includes the proposed golf course development and other recreation facilities. This document indicated that 42 to 64 percent of the serpentine grassland habitat at Edgewood Park would be destroyed as a result of Master Plan implementation and that there would be significant adverse effects to the bay checkerspot butterfly and irreversible losses of individuals and colonies. Because local extirpation or further declines of the bay checkerspot are likely even without disturbance, the Service believes that the existing Master Plan (San Mateo County 1984) contains substantial additional threats to the bay checkerspot butterfly. This does not mean, however, that modifications or alternative designs could not alleviate or significantly reduce these threats. The Specific Conservation Program (San Mateo County 1985) provides one alternative design. San Mateo County and one individual opposed to the listing pointed out that not all of the serpentine area within Edgewood Park is occupied by the butterfly. San Mateo County further stated that some of the proposed habitat area at Edgewood Park has not been and could not be viable habitat for the butterfly.

The Service responds that habitat identification in all areas is based on detailed survey information from a variety of sources. In the Edgewood Park area, information sources included Torrey and Torrey Inc. (1982), Reid and Murphy (1983), and Dr. Dennis Murphy (pers. comm.). The situation there is similar to that at Morgan Hill, in that serpentine grassland occupies about 20 percent of the park. It forms a nearly continuous band varying in width from about 250 to 2,500 feet surrounding a central ridge formed by an uplifted core of Franciscan greenstone. The distribution of adult butterflies, larvae, and host plants within the encircling serpentine matrix shows two disjunct areas of high butterfly concentration, one along the western edge of Edgewood Park, and the other near Hillcrest Way. There are several sites of lesser occurrence between these two sites and on the north side of the central ridge. Again, because of the disjunct distribution of host plants, larvae, adults and serpentine soils within the park, the map in the proposed rule outlined an inclusive area with convenient, non-ephemeral boundaries. Such boundaries serve to inform Federal agencies that habitat exists within that may be affected by Federal activities, funding or permits.

One comment stated that the habitats of the bay checkerspot butterfly at Jasper Ridge and San Bruno Mountain are not threatened. The commenter further qualified the statement by noting that the San Bruno colony is protected by the San Bruno Mountain Area Habitat Conservation Plan and the Jasper Ridge colony is protected as a biological preserve.

The Service replies that, indeed, no developments are proposed in these two areas that would adversely affect the bay checkerspot. However, observations of the bay checkerspot at San Bruno Mountain over the last four years indicate the colony is small, declining, and likely to disappear. The habitat is considered marginal as described below under "Summary of Factors." In 1984, fewer than 50 bay checkerspot butterflies were observed at the site. In 1986, a wildfire swept through the site. In 1987, no bay checkerspot butterflies were observed at San Bruno Mountain, and it is possible the population has been extirpated. The San Bruno Mountain Habitat Conservation Plan (County of San Mateo 1982) provides no specific provisions for protecting or managing the bay checkerspot colony other than leaving the habitat as natural open space.

The Jasper Ridge colony occurs within a biological preserve of Stanford University that is used for biological research. Although no developments are proposed for this area, the serpentine outcrop is small, and the grassland habitat is fragmented and interspersed with chaparral non-habitat. Consequently, the attendant small bay checkerspot colony is subject to severe fluctuations in population levels. This colony once consisted of three demographic units (Ehrlich and Murphy 1981), but it now consists of two as a result of drought-induced extirpation of one unit in the mid-1970s. If the drought had continued one more year, it is considered likely that all three units would have succumbed (Ehrlich and Murphy 1981, Ehrlich *et al.* 1980). These factors were emphasized in a letter of comment from the President of Stanford University that supported the listing.

The Service believes that the San Bruno Mountain and Jasper Ridge colonies, although relatively unthreatened by human activities, face a high probability of extirpation from natural factors such as prolonged drought.

The California Department of Fish and Game called attention to the proposed rule's inaccuracy of referring to habitat in Redwood City as the Woodside zone. Although the colony there is or was a

remnant on the edge of the former large butterfly colony in Woodside, the Service agrees with this recommendation and will refer to that area in the future as the Redwood City area or zone.

One comment stated that the Service assumes that because no Federal or State regulations exist to protect the bay checkerspot, no efforts are being made to preserve it. The City of San Jose, the County of San Mateo, and Santa Clara County all indicated that their environmental review process and various regulations help protect and provide measures to mitigate impacts to the butterfly. One comment stated that Federal listing cannot help these local efforts to protect the butterfly. Several comments stated that we should try to refurbish the habitats or move the organisms rather than just declare them to be endangered and then allow them to become extinct.

The Service replies that it recognizes the efforts of local agencies and individuals to protect the butterfly; however, Federal listing is required for any species fitting the definition of a threatened or endangered species after careful consideration of the five criteria outlined in seciton 4(a) of the Act. The Service is required by law to list the bay checkerspot as threatened because it clearly qualifies under these criteria. Whether the listing will assist local efforts to protect the butterfly is not pertinent to listing itself; recognition of threatened status makes a statement about the survival prospects of the species. The Service hopes, however, that Federal listing will help promote the conservation of the bay checkerspot through protective measures otherwise unavailable to local agencies and individuals. For example, Federal listing restricts the taking of the bay checkerspot butterfly pursuant to section 9(a)(1) of the Act. Moreover, Federal listing provides additional opportunities for the management and recovery of the species directly, by developing and implementing a recovery plan, and through cooperation with the State of California via Section 6 of the Act. Further discussion of the benefits of listing can be found below under the heading "Available Conservation Measures".

Agencies whose comments extended general support for listing included the National Park Service (Regional Office and Golden Gate National Recreation Area), which commented that Federal listing is required for the bay checkerspot butterfly to effect needed protection, and the California Department of Fish and Game, which also provided specific information on the occurrence of, and threats to, the butterfly. Their data was in agreement with the information presented in the proposed rule.

The Conservation Monitoring Centre and the Butterfly Specialist Group of the International Union for the Conservation of Nature and Natural Resources (IUCN), and Dr. Thomas W. Davies of California Academy of Sciences (Department of Entomology) also provided opinions and substantive data from other scientists. An IUCN report on this butterfly (Wells et al. 1983) in the Invertebrae Red Data Book affirms significant threats for the San Bruno, Jasper Ridge and Edgewood Park colonies. The letter from the California Academy of Sciences described former habitats and confirmed the loss of bay checkerspot colonies in Alameda County that resulted from home construction, plantings of Monterey pine, and drought.

Twelve chapters representing eight private conservation organizations registered support for the listing in letters and oral comments at the public hearings. A person that testified for one private organization did not support the listing. None of these testimonials added substantive information regarding the butterfly's status or threats not already in the record, but the Service appreciates the interest and concern shown.

With respect to procedures related to the proposed listing, one comment complained about the conditions at the public hearing. The complainant stated that the public address system did not work at first, and then later it played music, making it difficult to hear the speakers. He stated that the Service used too much time explaining the reasons for listing the species; concepts that were previously discussed in the **Federal Register.** He noted equal time was not allowed for each side to present relevant facts; with the specific example that a videotaped presentation prepared by Mr. Robert Trent Jones was delayed until after 10 o'clock and by that time most of the audience had left.

The Service apologizes for any inconvenience to the audience for the public address system, but this did not appear to be a significant problem at the meeting. Several other commenters stated that they thought the procedures and conditions at the public hearing were very good. The court recorder did not report difficulties, and the transcripts are evidently complete. The hearing officer ensured that all those wishing to comment were given adequate time to present relevant facts. No one was denied an opportunity to speak, and the hearing was extended to accommodate all speakers. Mr. Jones' video recording was held until last so that all individuals actually present would be given an opportunity to speak first. The Service considered that presentations on the provisions of the Act and background information in support of the listings were necessary to clarify the proposal and ensure everyone was familiar with the purpose of the public hearing.

United Technologies Corp. and two individuals commented on listing procedures noting that there was insufficient notification of the proposal and the public hearing. A concerned citizen stated that the file information on the listings was not reasonably available to people in the local area. United Technologies further alleged that they were denied due process in this proceeding, that the Service failed to follow the notice requirements specified in the listing regulations, that the newspaper publication was inadequate for the proposed rule, that the Service erred by adding the Morgan Hill critical habitat site to the proposed rule after the petition had been filed with the Service, and that the Service erred in denying United Technologies an opportunity for a second public hearing.

The Service responds that the Act and 50 CFR 424.16(c) require that notifications of the proposal and the public hearing be made public through notices published in the **Federal Register** and in local newspapers (refer to the previous background section for specific newspapers and publication dates). The Service provided all required notices under 50 CFR 424.16(c)(1)(iii). The Service published its proposed rulemaking in the **Federal Register** on September 11, 1984. "Actual notice" of the proposal was given to the California Department of Fish and Game and to each county in which the bay checkerspot butterfly was believed to occur. To the extent the Service had knowledge of the potential impacts proposed by the listing to any Federal agencies, local authorities, or private individuals or organizations, notice was provided to these entities and individuals. It should also be noted, however, that actual notice (by individual letter) is not a regulatory requirement under 50 CFR 424.16(c)(1)(iii) and that only a good faith effort is required on the part of the Service to notify states and counties and to determine the jurisdictions within which the species is believed to occur. "[A]n unintentional and unplanned failure of the notification system shall

not invalidate the proposed regulation." (H.R. Conf. Rep. No. 1804, 95th Cong., 2d Sess. 27 (1978).) With regard to the newspaper publication, United Technologies Corp. fails to point out specific facts concerning why the newspaper publications were inadequate. Given the extensive public record developed by the Service on the proposed rule and the full participation by development interests, the public, environmental groups, and various Federal, State, county, and city officials in the rulemaking process (and in particular the extensive participation by United Technologies), the Service is confident that it has fully complied with the procedural requirements of the regulations. To the extent it is entitled to procedural due process in an Endangered Species Act rulemaking, United Technologies and all other interested parties have been accorded adequate opportunity to comment numerous times on the proposed rulemaking and, along with all other members of the general public, have received all of the public notices that are provided for by the statute and the regulations. No other notice or hearing responsibilities are required to be fulfilled by the Service under the Endangered Species Act or the listing regulations, and United Technologies has failed to point out facts that would entitle it to any special procedural rights.

With respect to the reasonable availability of the file information, the information was available at the Service's Regional Office in Portland, Oregon. A phone number and address were provided in the notifications for those wishing to ask questions or inquire about the file information. The Service's file information was also available through the Freedom of Information Act, and was requested by several parties. The Service considers that all procedural requirements of the Act have been met.

With respect to United Technologies comments regarding inclusion of the proposed Morgan Hill critical habitat after the petition, the site was clearly indicated in the proposed rule. Any failure on the petitioner's part to include the site within the scope of their petition is not fatal to the rulemaking process, since the proposed rule undergoes a complete regulatory review that provides for public notice and comment on the expanded proposal. Moreover, the petitioner was under no duty to address the issue of critical habitat in a listing petition. The Service had complete authority to accept the new information concerning the Morgan Hill critical habitat site and incorporate it into a proposed rule after evaluating the information.

With respect to the requirement for a second hearing, as recommended by United Technologies, although the Service was not required to do so, the Service held a second hearing on July 16, 1986, to resolve differing scientific interpretations of data concerning newly discovered populations of checkerspot butterflies. United Technologies fully participated in the second public hearing, and, therefore, allegations that they have been denied the opportunity to personally appear before the Service during a public hearing no longer have weight. The Service further clarifies that written comments carry equal weight with those presented at public hearings. No special authority or significance is accorded oral statements made at public hearings.

In light of all of the notice and public comment opportunities accorded by the Service in the rulemaking process for the bay checkerspot butterfly listing, it is not necessary that the Service publish a second proposed rule to rectify alleged procedural infirmities. The Service's administrative record is complete for the issuance of a final listing rule.

In its May 16, 1985, comments, United Technologies objected to the listing of the bay checkerspot butterfly and designation of its critical habitat on the grounds that such proposed actions "would constitute a (taking) of [United Technologies] private property for public use without just compensation, in violation to the Fifth Amendment" to the Constitution of the United States. United Technologies also contended that the listing and critical habitat procedures provided for in the Endangered Species Act are unconstitutionally vague.

The Service responds that the constitutional issues raised by United Technologies challenge the fundamental procedural process provided by Congress for the listing of endangered and threatened species and the designation of their critical habitats, if any. As such, these contentions cannot be addressed in the final rule because the Service's determination on whether to list the bay checkerspot butterfly cannot be influenced by non-biological factors. The Service can state, however, that no federal court has determined that the listing procedure provided for in Section 4 of the Endangered Species Act is unconstitutionally vague. Furthermore, the biological standards specified in section 4(a)(1) of the Act are not vague and have been followed by the Service since the Act was first passed in 1973 to determine the appropriateness of listing species under section 4. In regard to the contention that the property of United Technologies has been "taken" by the Service's action, the Service replies that United Technologies failed to indicate how such taking will occur and why this rulemaking process *per se* would effect such a taking. The section 4 listing procedure requires the Service merely to analyze biological factors to determine the scientific appropriateness of classifying wildife or plant species as endangered or threatened. Once that procedure is accomplished, other procedures exist, either through section 7 of section 10 of the Act, to analyze impacts posed by particular development projects on endangered or threatened species. At present, facts have not been presented to show that a taking of United Technologies property would occur as a result of a final listing of the bay checkerspot butterfly. United Technologies has failed to make a showing of actual conflicts between its activities and the regulatory action taken by the Service in listing the bay checkerspot butterfly under Section 4 of the Endangered Species Act. Further, United Technologies has failed to show that the statutory procedures for listing species as endangered or threatened, or the application of such procedures to the bay checkerspot butterfly, are unconstitutionally vague. The Service is under a statutory obligation to follow through with the listing process based on the best available scientific and commercial information.

Further, United Technologies is not entitled to compensation for its expenses incurred in investigating and defending against this proceeding. The section 4 listing process is not an adversary proceeding, but rather is the Service's public involvement process for obtaining the best available information before making a final decision on listing proposals.

Summary of Factors Affecting the Species

After a thorough review and consideration of all information available, the Service has determined that the bay checkerspot butterfly *(Euphydryas editha bayensis)* should be classified as a threatened species. Procedures found at section 4(a)(1) of the Endangered Species Act (16 U.S.C. 1531 et seq.) and regulations promulgated to implement the listing provisions of the Act (50 CFR Part 424) were followed. A species may be determined to be an endangered or threatened species due to one or more of the five factors described in section

4(a)(1). These factors and their application to the bay checkerspot butterfly *(Euphydryas editha bayensis)* are as follows:

A. The Present or Threatened Destruction, Modification, or Curtailment of its Habitat or Range

Geologic map sheets show four large serpentine outcrops that all probably once constituted primary habitat for the bay checkerspot butterfly. A large outcrop at San Leandro in Alameda County had a historic bay checkerspot population, but apparently no longer supports the butterfly. San Mateo County has two such large outcrops, one at San Mateo, lying northeast of Crystal Springs Reservoir and extending southeast beyond the intersection of Interstate Highway 280 and Highway 92, and a second one extending from what is now Edgewood Park eastward to Woodside Road. Habitat on the San Mateo outcrop was almost eliminated by construction of Interstate Highway 280, although a remnant colony or recolonization is reported near the highway intersection mentioned. Habitat on the second outcrop is fragmented into smaller units by urbanization and road construction. A very significant fraction remains in Edgewood Park, but the portion in Woodside was largely eliminated by housing development, leaving a very small (approximately 26 acre) remnant inside the city limits of Redwood City. The Edgewood Park habitat segment is now the second largest remaining area of bay checkerspot habitat and appears to be vital to the species' continued survival. The fourth and largest serpentine outcrop in the known range occurs in Santa Clara County. It extends in a narrow belt about 16 miles from Hellyer Canyon to near the southeast end of Anderson Lake. The portions of this outcrop northwest of Metcalf Road and southeast of the Coyote Creek outlet from Anderson Lake appear to have been adversely modified by overgrazing. The remaining segment on the east face of Coyote Creek Valley between Metcalf Road and the Anderson Lake outlet supports the largest and most robust remaining colony of these butterflies and also appears to constitute the most vital population reservoir.

Approximately 26 smaller serpentine outcrops are mapped in or close to the known range of the bay checkerspot butterfly in Alameda, San Francisco, San Mateo and Santa Clara Counties. The best-studied bay checkerspot butterfly colony on such an outcrop is in the Jasper Ridge Biological Preserve of Stanford University, located east of Searsville Reservoir. Very detailed studies there revealed the existence of three distinguishable demographic (interbreeding) units within the single colony, but drought extirpated one of those in 1964 and again in 1974, and conservative extrapolations predicted the extirpation of the other two units as well if the 1975–1977 drought had lasted only one year longer.

Satellite colonies similar to the one at Jasper Ridge were observed to become extirpated by habitat modification at Joaquin Miller in Alameda County, and in 1977 by combined drought and habitat modification near Hillsborough in San Mateo County, near Silver Creek and west of Uvas Reservoir in Santa Clara County, and at Morgan Territory Road, in Alameda County. The colony at Morgan Territory Road had previously existed in close proximity to a *Euphydryas editha luestherae* colony on a serpentine formation at nearby Mount Diablo. In 1985, Dr. Richard Arnold found bay checkerspot butterflies at two small outcrop localities in Santa Clara County where they were previously unreported, one west of Calero Reservoir, and one about 2.5 miles west southwest of San Martin. Whether these are recolonizations since 1977 from the Morgan Hill colony about 5 miles away, or survived the last severe drought stress *in situ* cannot be determined, but they are on serpentine grassland habitats smaller than some occupied by colonies that disappeared in 1977. The small portions of former primary habitat in Redwood City and in San Mateo have been fragmented by urbanization, and colonies on them can be expected to act in the future as satellite colonies. The colony in Redwood City may be extirpated, as no butterflies have been observed there in the past four years.

Serpentine grassland sites that have probably supported satellite colonies of *E. e. bayensis* at one time or another are found in San Francisco County in a row of seven sites from Fort Point to Hunter's Point, at two sites in Alameda County, near Albany and near Lexington, and at 15 more sites in Santa Clara County, one south of Saratoga, one east of Lexington Reservoir, four sites between Guadalupe Reservoir and New Almaden, three sites lying north, south and west of Chesbro Reservoir, two sites in Santa Theresa Park, and four sites near Gilroy and along Sargent Fault. Many of these sites were surveyed briefly by Dr. Richard Arnold during the adult butterfly flight season in 1985 without establishing the presence of bay checkerspot butterflies, and his comments note that most of the sites he visited in Santa Clara County appeared to be overgrazed.

Marginal non-serpentine grassland habitat that has supported recorded colonies of the bay checkerspot butterfly occurred in Alameda County at Berkeley (extirpated), San Francisco County at Twin Peaks and Mount Davidson (both extirpated), San Mateo County at Brisbane (extirpated) and San Bruno Mountain (possibly extirpated), and in Santa Clara County near Coyote Reservoir (extirpated). Dr. Arnold has noted the presence of similar possible habitat in the vicinity of San Francisco Jail, on Sweeny Ridge, and in San Pedro Valley in San Mateo County.

B. Overutilization for Commercial, Recreational, Scientific, or Educational Purposes

Although specimens of the bay checkerspot butterfly are valuable to collectors, overcollecting has not been identified as a threat to any colony. To discourage unnecessary collecting, Stanford University offers old specimens from its museum on an exchange basis.

C. Disease or Predation

Ninety to ninety-nine percent of bay checkerspot butterfly larvae die of starvation while in prediapause instars. Three to twenty-four percent of the remaining postdiapause larvae at the Jasper Ridge colony are killed by three species of parasitoids (Ehrlich et al. 1975). Because of high prediapause mortality and because the greatest parasitism only occurs during years of high butterfly numbers, even this high rate of parasitism is not a major factor in determining the size of any bay checkerspot butterfly population. In years of large butterfly numbers, the majority of the butterflies still escape parasitism and provide recruitment in subsequent years.

D. The Inadequacy of Existing Regulatory Mechanisms

The bay checkerspot butterfly is not adequately protected from habitat loss, illegal collection, or harm under State or local regulations. Federal listing would provide additional protection to wild populations of this butterfly.

E. Other Natural or Manmade Factors Affecting its Continued Existence

Habitat damage can reduce the carrying capacity of a habitat or the size of a colony to a level at which natural climatic changes lead to extinction. The drought of 1976 and 1977 in association with overgrazing caused the disappearance of four colonies of the bay checkerspot butterfly (Murphy and Ehrlich 1980), and greatly reduced the

Jasper Ridge population (Ehrlich et al. 1980). This drought also caused the extirpation of some populations of another subspecies of *Euphydryas editha* (Ehrlich et al. 1980). It is likely that a particularly severe or prolonged drought would be disastrous to most of the remaining colonies.

The bay checkerspot butterfly occurs on grasslands of Montara or other serpentine or similar soils that function as habitat islands, disjunct from one another, and surrounded by unsuitable habitat. The five known occupied sites are geographically disjunct, the northernmost site on San Bruno Mountain and the southernmost, a 6000+ acre area located near Morgan Hill. Two of the five disjunct colonies are small enough to be subject to periodic natural extinctions. Threats of continued habitat and population losses, and the already substantially increased distances among the remaining colonies has significantly reduced the likelihood of natural recolonization and survival.

The Service has carefully assessed the best scientific and commercial information available regarding the past, present, and future threats faced by this species in determining to make this rule final. Based on this evaluation, the preferred action is to list the bay checkerspot butterfly *(Euphydryas editha bayensis)* as a threatened species. The documented loss of many former populations throughout a significant portion of the butterfly's range, the low population levels at all but one of the remaining colonies, and the high potential for continued habitat loss from planned and ongoing urban development, support listing as threatened. The Service finds that the conservation agreement initiated by Waste Management at the Morgan Hill site provides a useful legal mechanism that is expected to compensate for the adverse impacts of the landfill project. The Service also finds that the Waste Management conservation agreement could substantially assist with the conservation of the species at the Morgan Hill site if such efforts were expanded to include the additional habitat outside of the landfill area and leased lands, which encompass the remaining portion (about 70 percent) of the habitat at Morgan Hill. Threats at Edgewood Park are largely potential, depending upon the pending golf course proposal. The Jasper Ridge colony, although in protective ownership, remains susceptible to periodic threats of drought. The two recently extirpated colonies at San Bruno Mountain and Woodside seem to be in secure, protective ownership and, although small and thus more susceptible to periodic environmental stochasticity, remaining habitat at each appears to offer substantial potential for reestablishment. Thus, while the bay checkerspot butterfly is not presently in danger of extinction throughout a significant portion of its range, the Service finds that this subspecies is likely to become an endangered species within the foreseeable future throughout a significant portion of its range, and a "threatened" classification is appropriate.

Critical Habitat

Section 4(a)(3) of the Act requires that critical habitat be designated to the maximum extent prudent and determinable concurrently with the determination that a species is endangered or threatened. The Service believes that prompt determination of threatened status for the bay checkerspot butterfly is essential and warranted by the best scientific information available. However, critical habitat is not determinable at this time and it must be postponed.

Section 4(b)(2) of the Act requires the Service to consider economic and other impacts of designating a particular area as critical habitat. The remaining colony sites for the bay checkerspot butterfly exist in an area with a large human population and competing proposals for land use. The habitat identification process seeks to resolve a complex interdigitation of primary, permanent habitat, habitat having transitory and variable value to survival, and non-habitat. Because of these complexities and the extent of the activities being assessed, the Service has not completed the analyses required by sections 4(a)(3)(A) and 4(b)(2) of the Act in respect to the designation of critical habitat, and, therefore, a final critical habitat designation is not yet determinable.

Available Conservation Measures

Conservation measures provided to species listed as endangered or threatened under the Endangered Species Act include recognition, recovery actions, requirements for Federal protection, and prohibitions against certain practices. Recognition through listing encourages and results in conservation actions by other Federal, State, and private agencies, groups, and individuals. The Endangered Species Act provides for possible land acquisition and cooperation with the States and requires initiation of recovery actions by the Service following listing. The protection required of Federal agencies and the prohibitions against taking and harm are discussed, in part, below.

Section 7(a) of the Act, as amended, requires Federal agencies to evaluate their actions with respect to any species that is proposed or listed as endangered or threatened and with respect to its critical habitat. Regulations implementing this interagency cooperation provisions of the Act are codified at 50 CFR Part 402. Section 7(a)(2) requires Federal agencies to ensure that activities they authorize, fund, or carry out are not likely to jeopardize the continued existence of a listed species or to destroy or adversely modify its critical habitat. If a Federal action may affect a listed species or its critical habitat, the responsible Federal agency must enter into formal consultation with the Service. Federal activities that could affect this species and its habitat in the future include, but are not limited to, the following: the development of the San Bruno or Edgewood Park areas for recreation, the issuance of Federal permits or approvals for roads or transmission lines, or Federal funding or approval to build or construct any structures or facilities that might affect the bay checkerspot butterfly. The Act and implementing regulations found at 50 CFR 17.31 set forth a series of general prohibitions and exceptions that apply to all threatened wildlife. These prohibitions, in part, make it illegal for any person subject to the jurisdiction of the United States to take, import or export, ship in interstate commerce in the course of a commercial activity, or sell or offer for sale in interstate or foreign commerce any endangered or threatened wildlife species. It also is illegal to possess, sell, deliver, carry, transport, or ship any such wildlife that has been taken illegally. Certain exceptions apply to agents of the Service and State conservation agencies.

Permits may be issued to carry out otherwise prohibited activities involving endangered wildlife species under certain circumstances. Regulations governing permits are at 50 CFR 17.22, 17.23 and 17.32. Such permits are available for scientific purposes, to enhance the propagation or survival of the species, and/or for incidental take in connection with otherwise lawful activities. The permit issued to the County of San Mateo and the Cities of South San Francisco, Brisbane and Daly City under section 10(a) for incidental take of three endangered species pursuant to the San Bruno Mountain Habitat Conservation Plan does not cover the bay checkerspot butterfly. As a result, listing of the bay checkerspot

butterfly may require issuance of a new or amended section 10(a) permit.

National Environmental Policy Act

The Fish and Wildlife Service has determined that an Environmental Assessment, as defined under the authority of the National Environmental Policy Act of 1969, need not be prepared in connection with regulations adopted pursuant to section 4(a) of the Endangered Species Act of 1973, as amended. A notice outlining the Service's reasons for this determination was published in the **Federal Register** on October 25, 1983 (48 FR 49244).

References Cited

Brussard, P.F., P.R. Ehrlich and M.C. Singer. 1974. Adult movements and population structure in *Euphydryas editha*. Evolution. 28:408–415.

County of San Mateo. 1982. San Bruno Mountain Area Habitat Conservation Plan. Two volumes. 372 pp.

County of San Mateo. 1984. Stage II Final Supplement to the Environmental Impact Report for Edgewood County Park Master Plan. 295 pp.

County of San Mateo. 1985. The Edgewood Park Specific Conservation Plan. 8 pp. + maps.

Dibblee, T.W. 1973. Preliminary geologic map of the Morgan Hill quadrangle, Santa Clara County, California. U.S. Geological Survey open file map. 1 map.

Dos Passos, C.F. 1964. A synonymic list of the Nearctic Rhopalocera. Lepidopterists' Society Memoir No. 1. v + 145 pp.

Doudoroff, M. 1935. Notes on two local butterflies. Pan-Pacific Entomologist 11:144.

Ehrlich, P.R. 1965. The population biology of the butterfly, *Euphydryas editha*. II. The structure of the Jasper Ridge Colony. Evolution 19:327–336.

Ehrlich, P.R. 1979. The butterflies of Jasper Ridge. Coevolution Quart. 19:327–336.

Ehrlich, P.R. and D.D. Murphy. 1981. The population biology of checkerspot butterflies (*Euphydryas*). Biol. Zentralblatt 100:613:629.

Ehrlich, P.R., D.D. Murphy, M.C. Singer, C.B. Sherwood, P.R. White and I.L. Brown. 1980. Extinction, reduction, stability and increase: the response of checkerspot butterfly (*Euphydryas*) populations to the California drought. Oecologia. 46:101–105.

Ehrlich, P.R., R.R. White, M.C. Singer, S.W. McKechnie and L.E. Gilbert. 1975. Checkerspot butterflies: a historical perspective. Science 188:221–228.

Emmel, T.C., and J.F. Emmel. 1973. *The Butterflies of Southern California*. Natural History Museum of Los Angeles County. 148 pp. + xii.

Emmel, T.C., and J.F. Emmel. 1975. A new subspecies of *Euphydryas editha* from the Channel Islands of California. J. Res. Lepid. 13(1974):131–136.

Harvey and Stanley Associates, Inc. 1983. Biotic Reconnaissance of the Proposed Kirby Canyon Class II–2 Disposal Site. Draft Environmental Impact Report, San Jose, California. 32 pp.

Johnson, M.P., A.D. Keith and P.R. Ehrlich. 1968. The population biology of the butterfly, *Euphydryas editha*. VII. Has *E. editha* evolved a serpentine race? Evolution 22:799–805.

Kruckeberg, A. 1984. California's serpentine. Fremontia 12(1):11–17.

McKechnie, S.W., P.R. Ehrlich and R.R. White. 1975. Population genetics of *Euphydryas* butterflies. I. Genetic variation and the neutrality hypothesis. Genetics 81:571–594.

Murphy, D.D. 1981. The role of adult resources in the population biology of *Euphydryas* butterflies. Unpublished Ph.D. thesis, Stanford University, Stanford, California. 101 pp.

Murphy, D.D. and P.R. Ehrlich. 1980. Two California checkerspot butterfly subspecies: one new, one on the verge of extinction. J. Lepidopterists' Soc. 34:316–320.

Reid, T. and D.D. Murphy. 1983. Edgewood Park Site Bay Checkerspot Survey and Planning Constraints Analysis. San Mateo County, California. 13 pp.

Singer, M.C. 1971. Evolution of food-plant preferences in the butterfly *Euphydryas editha*. Evolution 35:383–389.

Soil Conservation Service. 1974. Soil Survey of Eastern Santa Clara Area, California. 90 pp. + maps.

Sternitzky, R.F. 1937. A race of *Euphydryas editha* Boisduval (Lepidoptera). Canad. Entomol. 69:203–205.

Torrey and Torrey, Inc. 1982. Draft Environmental Impact Report Edgewood County Park Master Plan. San Mateo County Division of Parks and Recreation. 56 pp.

Wells, S.M., Pyle, R.M. and W.M. Collins. 1983. The IUCN Invertebrate Red Data Book. IUCN Conservation Monitoring Centre, Cambridge, England. L + 632 pp.

White, R.R. and M.C. and M.C. Singer. 1974. Geographical distribution of hostplant choice in *Euphydryas editha* (Nymphalidae). J. Lepid. Soc. 28:103–107.

Author

The primary authors of this final rule are George E. Drewry, of the Service's Washington Office of Endangered Species, and Monty D. Knudsen of the Sacramento Field Office.

List of Subjects in 50 CFR Part 17

Endangered and threatened wildlife, Fish, Marine mammals, Plants (agriculture).

Regulations Promulgation

Accordingly, Part 17, Subchapter B of Chapter I, Title 50 of the Code of Federal Regulations, is amended as set forth below:

PART 17—[AMENDED]

1. The authority citation for Part 17 continues to read as follows:

Authority: Pub. L. 93–205, 87 Stat. 884; Pub. L. 94–359, 90 Stat. 911; Pub. L. 95–632, 92 Stat. 3751; Pub. L. 96–159, 93 Stat. 1225; Pub. L. 97–304, 96 Stat. 1411 (16 U.S.C. 1531 *et seq.*); Pub. L. 99–625, 100 Stat. 3500 (1986), unless otherwise noted.

2. Amend § 17.11(h) by adding the following, in alphabetical order under "Insects," to the List of Endangered and Threatened Wildlife:

§ 17.11 Endangered and threatened wildlife.

* * * * *

(h) * * *

Species		Historic range	Vertebrate population where endangered or threatened	Status	When listed	Critical habitat	Special rules
Common name	Scientific name						
Insects							
Butterfly, bay checkerspot	*Euphydrayas editha bayensis*	U.S.A. (CA)		T	288	NA	NA

Dated: September 14, 1987.

Susan Recce,

Acting Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 87–21603 Filed 9–17–87; 8:45 am]

BILLING CODE 4310–55–M

federal register

Friday
September 18, 1987

Part V

Department of Education

National Institute on Disability and Rehabilitation Research; Notices of Final Funding Priorities for Fiscal Year 1988 and Extension of Closing Date for Applications

DEPARTMENT OF EDUCATION

Final Funding Priorities for Fiscal Year 1988; National Institute on Disability and Rehabilitation Research

AGENCY: Department of Education.

ACTION: Notice of final funding priorities for fiscal year 1988.

SUMMARY: The Secretary of Education announces final funding priorities for some of the research activities to be supported under the Rehabilitation Research and Training Center (RRTC) program of the National Institute on Disability and Rehabilitation Research (NIDRR) in fiscal year 1988. This notice covers those research priorities in physical restoration and rehabilitation in which NIDRR intends to establish RRTCs in 1988.

EFFECTIVE DATE: These priorities take effect 45 days after publication in the **Federal Register** or later if the Congress takes certain adjournments. If you want to know the effective date of these priorities, call or write the Department of Education contact person.

FOR FURTHER INFORMATION CONTACT: Betty Jo Berland, National Institute on Disability and Rehabilitation Research (Telephone: (202) 732-1139). Deaf and hearing impaired individuals may call (202) 732-1198 for TDD services.

SUPPLEMENTARY INFORMATION: Authority for the research program of NIDRR is contained in section 204 of the Rehabilitaion Act of 1973. Under this program, awards are made to public and private agencies and organizations including institutions of higher education, Indian tribes, and tribal organizations. NIDRR can make awards for up to sixty months.

NIDRR supports a program of Rehabilitation Research and Training Centers to conduct programmatic, multidisciplinary, and coordinated research, training, and information dissemination in disignated areas of high priority. NIDRR regulations authorize the Secretary to establish research priorities by reserving funds to support particular research activities (see 34 CFR 352.32).

NIDRR published a Notice of Proposed Funding Priorities in the **Federal Register** on June 5, 1987, at 52 FR 21345. NIDRR received many letters of comment on the proposed priorities and, as a result, some changes have been made to the priorities. These changes involve a reconfiguration of the research objectives for two of the Centers in traumatic brain injury, incorporating stroke and removing categorical restrictions on the level of brain injury to be addressed. The Institute has also specified head trauma as one type of disability for consideration in the RRTC on childhood trauma, and has included a reference to communication deficits in the priority for an RRTC in neuromuscular disorders. In response to public comments, the Institute will also consider awarding grants rather than cooperative agreements when circumstances indicate a grant would be more appropriate. NIDRR has also clarified that individuals with the particular type of disability under study must be involved in the planning and conduct of activities at each Center. A Summary of the comments and the Secretary's responses to them is included in this notice.

The publication of these final priorities does not bind the Federal Government to fund RRTCs in any of these areas. Funding of particular RRTCs depends on availability of funds, and on the number and quality of applications that NIDRR receives. NIDRR published a closing date notice on June 24, 1987 at 52 FR 23712. The closing date for receipt of applications under these priorities, as announced at the time, is September 25, 1987.

The following nine priorities represent areas in which NIDRR intends to support research and related activities through grants or cooperative agreements in the RRTC program. Rehabilitation Research and training Centers have been established to conduct coordinated and advanced programs of rehabilitation research and to provide training to rehabilitation personnel engaged in research or the provision of services. RRTCs must be operated in collaboration with institutions of higher education and must be associated with rehabilitation service programs. Each Center conducts a coordinated program of research, evaluation, and training activities focused on a particular rehabilitation problem area. Each Center is encouraged to develop practical applications for all of its research findings as well as for related findings of other studies. Centers generally disseminate and encourage the utilization of new rehabilitation knowledge through such means as writing and publishing undergraduate and graduate texts and curricula and publishing findings in professsional journals. RRTCs also conduct programs of in-service training for rehabilitation practitioners, education at the pre-and postdoctoral levels, and continuing education. Each RRTC will conduct an interdisciplinary program of training in rehabilitation research, including training in research methodology and applied research experience, that will contribute to the number of qualified researchers working in the area of rehabilitation research. Centers will also conduct state-of-the-art studies in relevant aspects of their priority areas. NIDRR intends to sponsor consensus conferences at which scientists and service providers will be convened for the purpose of resolving differences in rehabilitation treatments based on new scientific findings. NIDRR expects each of the RRTCs to develop and document at least one new rehabilitation technique or intevention that is suitable for presentation at a consensus conference of researchers and clinicians convened to consider the adoption of the new technique as standard practice. Each RRTC will also provide training to individuals with disabilities and their families in managing and coping with disabilities.

NIDRR will conduct, not later than three years after the establishment of any RRTC, one or more reviews, using NIDRR staff or program peers, of the activities and achievements of each Center. Continued funding depends at all times on satisfactory performance and accomplishment, and is subject to the standards in 34 CFR 75.253.

Final Priorities (9)

RRTC in Progressive Neuromuscular Diseases

Progressive neuromuscular diseases constitute a range of chronic, degenerative conditions that are of particular concern for rehabilitation because they result in significant loss of function and impaired ability to perform normal activities of daily living. This group of disorders impairs primarily the motor system, causing paralysis and weakness, as well as significant secondary impairments. Because some neuromuscular diseases affect children and young adults, there may be significant effects on educational and vocational preparation and function. Serious progressive neuromuscular disorders include spinal muscular atrophy, motor neuron disease, and muscular dystrophy.

A program of coordinated, interdisciplinary research and training is needed to develop and disseminate rehabilitation approaches to restore neuromuscular performance and maintain physical function. A critical element of any Center to be funded under this priority will be the involvement of individuals with neuromuscular diseases and their families in the planning, conduct, and review of the research and related activities.

An absolute priority is announced for a Center in rehabilitation of progressive neuromuscular diseases that will:

- Evaluate quantitative measures of neuromuscular function leading to improved techniques for assessing physical functioning;
- Evaluate the effects of various therapeutic interventions on the natural course of the disease processes and on functional ability;
- Develop effective rehabilitation interventions to improve vocational, educational, communicative, and independent living options;
- Develop and document one or more rehabilitation techniques suitable for consideration at an NIDRR-sponsored consensus conference; and
- Serve as a national resource for information and referral for research scientists, service providers, and affected individuals and their families, on issues related to rehabilitation of progressive neuromuscular disease, develop a central database for research on low-incidence neuromuscular disabilities, and conduct at least one comprehensive state-of-the-art study on a significant facet of rehabilitation of neuromuscular disease.

RRTC in Multiple Sclerosis

Multiple Sclerosis is a chronic, unpredictable disease of the nervous system which affects as many as forty in every one hundred thousand persons in the United States. Because it affects individuals at the onset of their careers and adult responsibilities, the disease has far-reaching implications for family, community, and vocational adjustment.

While there have been considerable recent advances in knowledge about the disease, there is, however, no consensus on appropriate interventions to modify the course of the disease or on the most effective approaches to rehabilitation. A program of coordinated, interdisciplinary research and training is needed to develop and disseminate rehabilitation approaches to restore and maintain physical, psychological, vocational, and social function. A critical element of any Center to be funded under this priority will be the involvement of individuals with multiple sclerosis and their families in the planning, conduct, and review of the research and related activities.

An absolute priority is announced for a Center in rehabilitation of multiple sclerosis that will:

- Identify the natural course of the disease in order to predict the likelihood and severity of resultant disability, and to develop intervention strategies;
- Determine the best techniques for managing disabling fatigue, cognitive and conceptual effects, impaired motor function, and psychological dysfunction;
- Develop effective vocational rehabilitation approaches, including accommodations at the workplace and auxiliary community support services;
- Develop public education programs to aid patients and their families to cope with the disease and to increase public understanding of the disease;
- Develop and document one or more rehabilitation techniques suitable for consideration at an NIDRR-sponsored consensus conference; and
- Conduct at least one comprehensive state-of-the-art study on a significant aspect of vocational rehabilitation in multiple sclerosis.

RRTC in Rehabilitation and Childhood Trauma

Injury is the leading cause of death and disability in childhood. Each year, over 100,000 children become disabled as a result of major trauma, including head trauma. While NIDRR-sponsored researchers have been accumulating information on the natural history of trauma and the consequent disability experienced by children, little is known about the potential for rehabilitation services to improve the health, function, and quality of life of injured children.

A program of coordinated, interdisciplinary research and training is needed to develop and disseminate rehabilitation approaches to restore and maintain physical, psychological, family, and social functions for children who have incurred trauma. A critical element of any Center to be funded under this priority will be the involvement of the families of children who have incurred trauma, and the children themselves, as appropriate, in the planning, conduct, and review of the research and related activities.

An absolute priority is announced for an RRTC in Childhood Trauma that will:

- Establish and maintain a national pediatric trauma data base to study the mechanisms and causes of injury, the relationships between the impairment, disability, and the resultant handicap, the impact of childhood trauma on families, the need for and use of rehabilitative services, and methods of financing rehabilitative care;
- Develop methods to describe and quantify the physical, communicative, sensory, and cognitive functioning of injured children, and develop and test prognostic measures that accurately predict clinical outcomes and rehabilitation and educational needs;
- Assess the efficacy of existing physical restoration and rehabilitation interventions, in order to develop improved or new interventions;
- Assess the impact of injury on family members and the role of the family in rehabilitation, and develop interventions to improve the ability of families to cope with childhood trauma;
- Develop and disseminate public education programs to prevent the occurrence of injuries in children;
- Assess the influence of childhood trauma on the peer relationships, sexual maturation, and career aspirations of injured children;
- Provide educational materials and training programs for health professionals, educators, health care policymakers and families about injury prevention, care, and rehabilitation;
- Develop, evaluate, and disseminate model programs to assist children with handicaps resulting from trauma in the transition from school to work;
- Develop and document one or more rehabilitation techniques suitable for consideration at an NIDRR-sponsored consensus conference; and
- Serve as a national resource center for the collection and dissemination of information and conduct at least one state-of-the-art study on a significant aspect of rehabilitation in childhood trauma.

RRTC in Arthritis and Related Musculoskeletal Disabilities

Approximately thirty-seven million Americans have arthritis, and some seven million of those are disabled by the disease. The prevalence of this chronic disease increases by about one million each year, and it incapacitates more people than any other chronic disease. Although arthritis is commonly associated with aging, there are about one-quarter of a million children under age eighteen with the disease. Arthritis affects twenty-three million individuals of employment age, and thus is a leading cause of work absenteeism, activity limitation, and workers' compensation claims.

There is currently a very active biomedical research effort on the causes and treatment of arthritis. There has not been, however, a similar emphasis on scientific investigation and development of techniques of rehabilitation for the preservation and restitution of joint function or for the prevention and management of chronic pain and its associated complications. Additional research is needed to develop improved models of service delivery that facilitate continued employment.

A program of coordinated, interdisciplinary research and training is needed to develop and disseminate rehabilitation approaches to restore and maintain physical, psychological, and

vocational functioning for individuals disabled by arthritis. A critical element of any Center to be funded under this priority will be the involvement of individuals with arthritis or other musculoskeletal disabilities and their families in the planning, conduct, and review of the research and related activities.

An absolute priority is announced for an RRTC in rehabilitation of arthritis and related musculoskeletal diseases that will:

- Evaluate currently accepted techniques for assessing physical performance and develop and evaluate improved rehabilitation treatment techniques emphasizing maintenance and restoration of function and reduction of chronic pain;
- Develop and test functional performance appraisal strategies to evaluate new rehabilitation techniques;
- Develop and demonstrate innovative rehabilitation models to promote full participation in work, family, and community life;
- Provide needed education and training to professionals, persons with arthritis, and their families to promote adjustment to community living and work;
- Serve as a national resource for information and referral for scientific researchers, service providers, and affected individuals and their families, and develop a research database on low-incidence musculoskeletal disabilities;
- Develop and document one or more rehabilitation techniques suitable for consideration at an NIDRR-sponsored consensus conference; and
- Conduct at least one state-of-the-art study on a significant aspect of rehabilitation of individuals severely disabled by arthritis.

RRTC in Rehabilitation of Traumatic Brain Injury (TBI) and Stroke

Traumatic brain injury (TBI) is a problem of major and increasing magnitude. The incidence of hospitalization for head injury in the United States is approximately 200 per 100,000 population. Each year, between 30,000 and 50,000 individuals acquire serious disabilities as a result of brain injuries, and most of these are youth and young adults, with life expectancies of an additional thirty-five to fifty years. Advances in emergency and acute care for head injury have resulted in a dramatic reduction in mortality, thereby crating a large population needing appropriate rehabilitative, educational, social, and independent living services. The cost of long-term care and maintenance for individuals with head injuries can be significant.

Cerebrovascular accidents (CVA's), or strokes, are among the most frequent causes of disabilities that range from physical, neurological, and sensory limitations to problems of emotional and social adjustment. While strokes most frequently affect an older population than do other head injuries, they may result in similar disruptions to brain functioning and require comprehensive rehabilitation services.

Individuals with moderate head injuries, as measured by standard neurological and other techniques, have varying prospects for recovery of function and are likely to require an array of rehabilitative and independent living services over an extended period of time. Severe traumatic brain injury is generally marked by a lengthy period of unconsciousness, a longer period of post-traumatic amnesia than in moderate injury, higher degrees of intracranial pressure, and predicted greater deficits in long-term functioning and adjustment. There is only limited information available on severe head injury, especially on issues related to coma management, assessment, and rehabilitation. Strokes may result in limitations to physical performance, sensory and communicative deficits, cognitive deficits, and loss of social skills.

A program of coordinated and interdisciplinary research and training is needed to develop and disseminate rehabilitation approaches to restore and maintain physical, psychological, social, independent living, and vocational functioning for individuals disabled by head injury or stroke or both. A critical element of any Center to be funded under this priority will be the involvement of individuals with head injury or stroke and their families in the planning, conduct, and review of the research and related activities.

An absolute priority is announced for at least two RRTCs in TBI/CVA that will:

- Conduct studies on the pathophysiology of brain injury, in order to identify the clinical course of brain injury or stroke and the most effective rehabilitation interventions for different phases of neural recovery;
- Develop, test, and validate prognostic measures that accurately predict clinical outcomes and rehabilitation needs;
- Identify and define the role of rehabilitation in brain injury or stroke, or both, in order to develop and test innovative rehabilitation techniques, including physical restoration to enhance impaired motor function, and techniques for coma arousal, behavioral adjustment, improving communication, and cognitive retraining;
- Develop methods to prevent and treat major secondary complications of brain injury or stroke or both;
- Develop and evaluate new models of community-based services, including family participation in rehabilitation, and provide training for service providers and family members in approaches to adjustment, independent living, and managing and financing care in the community;
- Develop linkage with appropriate NIDRR-supported and other research and development resources to assure that appropriate technological aids and devices, such as supportive wheelchair seating and augmentative communication devices, and used;
- Serve as a national resource center for information on research and related innovations in all aspects of rehabilitation and service delivery for individuals with TBI;
- Develop and document one or more rehabilitation techniques suitable for consideration at an NIDRR-sponsored consensus conference; and
- Conduct at least one state-of-the-art study on a significant aspect of traumatic brain injury rehabilitation.

RRTC in Psychological and Social Adjustment and Community Integration in TBI

The increasing frequency with which TBI individuals recover function and can return to some level of living in the community—either independently or with special support systems—focuses attention on the need for more knowledge about the most effective mechanisms to promote independent living, employment, and community integration. A definite priority in this area is a focus on the behavior management, community reintegration, and social adjustment of individuals with TBI of all degrees of severity. There is also a definite need for an information database on rehabilitation research in TBI as well as an information resource on available services and resources. This priority emphasizes the establishment of a cooperative database, which will include data from all NIDRR-supported research efforts in traumatic brain injury, and the dissemination of research-based information.

A program of coordinated, interdisciplinary research and training is needed to develop and disseminate rehabilitation approaches to promoting psychological adjustment, independent living, employment, and community

integration for individuals with head injury. A critical elememt of any Center to be funded under this priority will be the involvement of individuals with traumatic brain injury and their families in the planning, conduct, and review of the reserch and related activities.

An absolute priority is announced for an RRTC in psychological adjustment and community integration in TBI that will:

- Conduct studies on all aspects of psychological and social adjustment and behavior management in TBI, including family education and participation, in order to develop effective rehabilitation techniques;
- Evaluate current models, and develop improved models, of community reintegration, including new community-based recreational and respite care models, and models for vocational preparation, adjustment, and maintenance;
- Develop, with other NIDRR research Centers and projects, including the NIDRR designated model projects for TBI rehabilitation, a coordinated TBI research database;
- Conduct a state-of-the-art study on a significant aspect of psychological or social adjustment or community integration in TBI;
- Develop and document one or more rehabilitation techniques suitable for consideration at an NIDRR-sponsored consensus conference; and
- Serve as a national resource and information center on all aspects of psychological, social, community and family-oriented research and service delivery issues.

RRTC in Prevention and Treatment of Secondary Complications of Spinal Cord Injury (SCI)

The rehabilitation community throughout the world has long recognized the enormous economic demands and general societal impact made by the lifetime care needs of persons with spinal cord injuries. The prevalence of spinal cord injury (SCI) in the United States is estimated to be between 1500,000 and 200,000, with 8,000–10,000 new spinal cord injuries occurring each year. Secondary medical complications are the most debilitating, life-threatening, and costly conditions associated with SCI, often resulting in extended acute care hospitalization that decreases the potential for successful rehabilitation and return to independence.

A program of coordinated, interdisciplinary research and training is needed to develop and disseminate rehabilitation approaches to preventing and treating secondary complications from SCI. A critical element of any Center to be funded under this priority will be the involvement of individuals with spinal cord injury and their families in the planning, conduct, and review of the research and related activities.

An absolute priority is announced for an RRTC in secondary complications of SCI that will:

- Develop methods to prevent and treat secondary complications of spinal cord injury such as deep vein thrombosis, pulmonary-respiratory problems, autonomic dysreflexia, gastrointestinal infections, stress ulcers, ossification, mass reflex spasticity, infertility, genitourinary infection, and pressure sores;
- Develop techniques to remedy psychological and social problems that occur in individuals with SCI;
- Serve as a national resource and information center on secondary complications of SCI, and establish linkages and coordinate with other NIDRR-supported research and demonstration activities in this area;
- Develop and document one or more rehabilitation techniques suitable for consideration at an NIDRR-sponsored consensus conference; and
- Conduct at least one state-of-the-art study on a significant aspect of prevention and treatment of secondary complications of SCI.

RRTC in Neural Recovery and Enhanced Function in SCI

Rehabilitation treatments to promote functional recovery and restoration after spinal cord injury can make a significant impact on long-term outcomes for the individual with SCI. This priority focuses on new rehabilitation interventions to increase neural recovery and enhance function following impairment.

A program of coordinated, interdisciplinary research and training is needed to develop and disseminate rehabilitation approaches to promoting restoration and maintenance of function after SCI. A critical element of any Center to be funded under this priority will be the involvement of individuals with SCI and their families in the planning, conduct, and review of the research and related activities.

An absolute priority is announced for an RRTC in neural recovery from SCI that will:

- Develop and evaluate therapies for maximizing neural recovery and functioning;
- Develop, test, and validate instruments that assess physical function and predict rehabilitation outcomes;
- Serve as a national resource and information center on all appropriate aspects of neural recovery and return of function;
- Develop and document one or more rehabilitation techniques suitable for consideration at an NIDRR-sponsored consensus conference; and
- Conduct at least one state-of-the-art study on a significant aspect of neural recovery and enhanced function in SCI.

RRTC in Community-Oriented Servcies in SCI

The improvements in acute and rehabilitative care have resulted not only in longer life expectancies for individuals with SCI, but in a greater likelihood of return to the community and enhanced expectations for quality of life and work. A third priority in the area of SCI emphasizes innovative followup and health maintenance strategies, methods and resources for community reintegration and social participation, and psychological-social-vocational preparation and adjustment. Attention must also be directed to a fuller understanding of the aging process in spinal cord injury.

A program of coordinated, interdisciplinary research and training is needed to develop and disseminate rehabilitation approaches to promoting psychological adjustment and community reintegration after SCI. A critical element of any Center to be funded under this priority will be the involvement of individuals with SCI and their families in the planning, conduct, and review of the research and related activities.

An absolute priority is announced for an RRTC in community-based rehabilitation of SCI that will:

- Develop and test innovative post-acute rehabilitation followup models, including programs of health maintenance, to assure continued rehabilitation;
- Develop and evaluate techniques to improve psychological, social, and vocational preparation, including community reintegration and adjustment, for individuals with SCI;
- Provide training to individuals with SCI and their families on home-based management of pain, financial reimbursements, health insurance, new techniques and devices for communication, and recruitment, training, and financing of personal attendants;
- Conduct one or more studies on the aging process in spinal cord injury, to include the identification and elucidation of changing needs for

medical care, psychological services, and adaptive equipment;

- Serve as a national SCI resource and information center on innovations in followup care, psychological and social adjustment, community reintegration, financial management, management of attendent care, vocational preparation, and employment;
- Develop and document one or more rehabilitation techniques suitable for consideration at an NIDRR-sponsored consensus conference; and
- Conduct at least one state-of-the-art study on a significant aspect of community-oriented services in spinal cord injury.

Summary of Comments and Respones

NIDRR received one hundred and fity comments in response to the proposed priorities. Several changes were made as a result of those comments. A summary of the comments and the Secretary's responses to them follows.

Comment: A large number of commenters objected to the fact that stroke was not specifically mentioned as an area of focus in the priorities. Many commenters also noted that stroke is currently studied in the RRTCs on traumatic brain injury, and that the research issues for both TBI and stroke are similar.

Response: A change has been made. NIDRR has specifically included stroke, or cerebral vascular accident (CVA), as a category of disability that could be studied within the Centers on general rehabilitation and physical restoration in TBI. NIDRR has not included stroke in the priority for psychological-social rehabilitation in TBI. The differences between the typical populations with stroke (CVA) and TBI are significant, and the social adjustment issues are so different as to indicate separate studies. Accordingly, NIDRR intends to propose a priority for a Research and Demonstration Project in psychological and social adjustment for persons who have had cerebral vascular accidents.

Comment: Many commenters objected to the division of research on TBI into the categories of moderate brain injury and severe injury, arguing that the classifications are imprecise; that they do not determine who will be served in a clinical program; they do not lead to discrete research issues; and that individuals do not remain static with respect to these classifications.

Response: A change has been made. The Secretary is persuaded that the physical restoration and rehabilitation of individuals with TBI can best be studied in a comprehensive context, encompassing individuals at all stages on the continuum of severity of injury. Accordingly, NIDRR has revised the priority statement to focus on at least two general Centers for physical restoration and rehabilitation in traumatic brain injury.

Comment: Two commenters suggested that issues of neural recovery and coma management in TBI are well-funded by the National Institute on Neurological and Communicative Disorders (NINCDS) and that NIDRR funds should not be allocated to these issues.

Response: No change has been made. NIDRR has consulted with NINCDS and concludes that there is not sufficient research on the rehabilitation aspects of neural recovery and coma management and these remain appropriate subjects for NIDRR-sponsored research.

Comment: Several commenters suggested that the RRTC on childhood trauma should include specific reference to traumatic brain injury in children and should develop prognostic measures that predict future service needs.

Response: A change has been made. A specific reference to head trauma has been incorporated into the priority on childhood trauma, as has a reference to prognostic measures.

Comment: One commenter noted that all priorities should contain the requirement that individuals with the particular types of disability under study should be involved in the planning and operation of the Center.

Response: A change has been made. The Secretary agrees that it is appropriate not only to assure the involvement of individuals with disabilities in the program, but to assure that each Center involves individuals who have the specific disability being studied in the planning and conduct of the activities of the Center.

Comment: One commenter recommended that the priorities on neuromuscular disorders and on traumatic brain injury should make specific reference to communicative deficits associated with these disorders.

Response: A change has been made. The Secretary agrees that communicative deficits are among the impairments associated with neuromuscular disorders and traumatic brain injury and has incorporated reference to communicative disorders in these priorities.

Comment: Several commenters stated that the priorities for three RRTCs on spinal cord injury were too restrictive in separating different aspects of rehabilitation into different Centers.

Response: No change has been made. The Secretary believes that the research of these Centers should be focused on development of techniques and interventions to solve specific problems. NIDRR funds a network of special projects for comprehensive treatment, data analysis, and research in spinal cord injury. The Secretary believes that the RRTCs should be distinct from these model projects by focusing on particular rehabilitation objectives.

Comment: One commenter objected to a priority for a Center to study childhood trauma, arguing that the purpose of the Rehabilitation Act, as amended, is to focus on disabled persons with vocational potential.

Response: No change has been made. Title II of the Rehabilitation Act, as amended, specifically authorizes NIDRR to conduct research related to disabled children.

Comment: Two commenters recommended that NIDRR announce a priority for an RRTC in cardiovascular rehabilitation.

Response: No change has been made. NIDRR has held planning meetings with representatives of the National Institutes of Health and with other scientists to discuss needs for research in cardiovascular rehabilitation. As a result of the planning activity, NIDRR intends to explore the possibility of a Research and Demonstration Project in cardiovascular rehabilitation.

Comment: Several commenters urged that NIDRR consider funding additional RRTCs in certain areas, mainly arthritis and traumatic brain injury.

Response: No change has been made. The Secretary has the option of funding more than one Center under any priority if funds are available and the quality of the applications indicates that funding additional Centers would significantly enhance new solutions to rehabilitation problems.

Comment: Several commenters recommended that mild head injury be included in the priorities, either through a separate RRTC priority or through expanding the scope of the proposed priorities.

Response: A change has been made. The scope of the priorities in traumatic brain injury has been expanded to permit researchers to propose important research unconstrained by categories of severity of injury.

Comment: One commenter recommended that a priority be announced for the development of model long-term residential alternatives for TBI and SCI individuals.

Response: No change has been made. These priorities do not preclude applicants from addressing the issues of optimal and affordable long-term housing options within the framework of community-oriented services and

community integration. Investigators who are interested in exploring these issues may also consider submitting applications under the Field-Initiated Research or Innovation Grants programs.

Comment: One commenter recommended that the studies of the state-of-the-art required in the Centers on TBI should emphasize that they are studies of the state-of-the-art in TBI rehabilitation.

Response: A change has been made. The RRTCs on physical restoration and rehabilitation in TBI and stroke must conduct studies of the state-of-the-art in rehabilitation of these two disabilities. No change has been made in the priority on psychological-social adjustments and community integration as the Secretary considers the issues specified for that state-of-the-art study to be aspects of rehabilitation.

Comment: Two commenters suggested that NIDRR should also consider awarding grants rather than cooperative agreements for some of the Centers where the grant would be the more appropriate funding mechanism.

Response: A change has been made. The Secretary agrees that cooperative agreements may not always be the most appropriate funding vehicle, and that there may be circumstances in which the Department will elect to award grants.

(20 U.S.C. 761a, 762)

Dated: August 28, 1987.

(Catalog of Federal Domestic Assistance No. 84.133B, National Institute on Disability and Rehabilitation Research)

William J. Bennett,

Secretary of Education.

[FR Doc. 87-21626 Filed 9-17-87 8:45 am]

BILLING CODE 4000-01-M

Extension of Closing Date for Applications for Certain Rehabilitation Research and Training Centers (CFDA 84.133B) Under the National Institute of Disability and Rehabilitation Research (NIDRR) for Fiscal Year 1988

Purpose

On June 5, 1987, NIDRR published in the **Federal Register** at 52 FR 21345 a notice of proposed priorities for Rehabilitation Research and Training Centers (RRTC) in the area of physical restoration. On June 24, 1987, NIDRR published a notice in the **Federal Register** at 52 FR 23712 requesting the transmittal of applications based on those proposed priorities by September 25, 1987.

Because NIDRR has made changes in two of the proposed priorities relating to traumatic brain injury, in response to comments received from the public, the Secretary has decided to extend the closing date for applications for a center under the final priority for an *RRTC in Rehabilitation of Traumatic Brain Injury (TBI) and Stroke.* A description of this final priority is published in the issue of the **Federal Register.** This extension applies to applications under that one priority only. NIDRR intends to fund these projects through grants or cooperative agreements; the estimated funding levels in the notice are estimates for each year of the award.

Deadline for transmittal of applications: Applications must be submitted by October 9, 1987.

Applications available: June 26, 1987

Estimated number of awards: At least 3

Estimated range of awards: $600,000–$650,000

Project period: Up to 60 months

Available funds: $1,900,000

Applicable regulations: (a) Education Department General Administrative Regulations, 34 CFR Parts 74, 75, 77, and 78, (b) the regulations for this program in 34 CFR Parts 350 and 352, and (c) the final priorities for this program.

For Applications or Information Contact: Betty Jo Berland, National Institute on Disability and Rehabilitation Research, U.S. Department of Education, 400 Maryland Avenue, SW., Washington, DC 20202. Telephone (202) 732-1207; deaf and hearing impaired individuals may call (202) 732-1198 for TTY services.

Program Authority: 29 U.S.C. 762(b)(1).

Madeleine Will,

Assistant Secretary for Special Education and Rehabilitative Services.

Dated: September 15, 1987.

[FR Doc. 87-21625 Filed 9-17-87; 8:45 am]

BILLING CODE 4000-01-M

Federal Register

Friday
September 18, 1987

Part VI

Department of Transportation

Federal Aviation Administration

14 CFR Part 71

Establishment of Airport Radar Service Areas; Final Rule

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 86-AWA-42]

Establishment of Airport Radar Service Areas

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action designates Airport Radar Service Areas (ARSA) at Akron-Canton Regional Airport, OH; Grand Rapids Kent County International Airport, MI; Rochester-Monroe County Airport, NY, and Toledo Express Airport, OH. The locations designated are public airports at which a nonregulatory Terminal Radar Service Area (TRSA) is currently in effect. Establishment of these ARSA's will require that pilots maintain two-way radio communication with air traffic control (ATC) while in the ARSA. Implementation of ARSA procedures at these locations will reduce the risk of midair collision in terminal areas and promote the efficient control of air traffic.

EFFECTIVE DATE: 0901 UTC, October 22, 1987, for Grand Rapids Kent County International Airport, MI; Rochester-Monroe County Airport, NY, and Toledo Express Airport, OH; 0901 UTC, October 20, 1988, for Akron-Canton Regional Airport, OH.

FOR FURTHER INFORMATION CONTACT: Mr. Robert Laser, Airspace Branch (ATO-240), Airspace-Rules and Aeronautical Information Division, Air Traffic Operations Service, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591; telephone: (202) 267-9255.

SUPPLEMENTARY INFORMATION:

History

On April 22, 1982, the National Airspace Review (NAR) plan was published in the **Federal Register** (47 FR 17448). The plan encompassed a review of airspace use and the procedural aspects of the air traffic control (ATC) system. The FAA published NAR Recommendation 1-2.2.1, "Replace Terminal Radar Service Areas (TRSA) with Model B Airspace and Service (Airport Radar Service Areas)," in Notice 83-9 (48 FR 34286, July 28, 1983) proposing the establishment of ARSA's at Columbus, OH, and Austin, TX. Those locations were designated ARSA's by SFAR No. 45 (48 FR 50038, October 28, 1983) in order to provide an operational confirmation of the ARSA concept for potential application on a national basis. The original expiration dates for SFAR 45, December 22, 1984, for Austin and January 19, 1985, for Columbus were extended to June 20, 1985 (49 FR 47176, November 30, 1984).

On March 6, 1985, the FAA adopted the NAR recommendation and amended Parts 71, 91, 103 and 105 of the Federal Aviation Regulations (14 CFR Parts 71, 91, 103 and 105) to establish the general definition and operating rules for an ARSA (50 FR 9252), and designated Austin and Columbus airports as ARSA's as well as the Baltimore/Washington International Airport, Baltimore, MD (50 FR 9250). Thus far the FAA has designated 89 ARSA's as published in the **Federal Register** in the implementation of this NAR recommendation.

On March 19, 1987, the FAA proposed to designate ARSA's at Akron-Canton Regional Airport, OH; Grand Rapids Kent County International Airport, MI; Rochester-Monroe County Airport, NY, and Toledo Express Airport, OH, (52 FR 8730). This rule designates ARSA's at these airports. Interested parties were invited to participate in this rulemaking proceeding by submitting comments on the proposal to the FAA. Additionally, the FAA has held informal airspace meetings for each of these proposed airports.

Discussion of Comments

The FAA has received comments on the basic ARSA program as well as comments directed toward the proposed individual designation. Additionally, several of the comments on individual designation are common or speak to the basic program itself. Discussion of the comments is divided into two sections. The first addresses common and ARSA program comments; the second addresses comments on the proposal at each of the specific airports.

ARSA Program Comments

Aircraft Owners and Pilots Association (AOPA) and others commented that, notwithstanding the statement by the FAA in the Regulatory Evaluation contained in the notice, increased air traffic controller personnel and equipment would be needed to handle the increased traffic expected due to the mandatory provisions of the ARSA. FAA's experience with the current ARSA's has been that while there is an increase in the amount of traffic being handled by controllers, this increase is significantly offset by the reduction in the amount of control instructions that must be issued under ARSA procedures as compared to TRSA procedures. However, the FAA recognizes that the potential exists for a need to establish additional controller positions at some facilities due to increased workload should the expected efficiency improvements in handling traffic not fully offset the increased number of aircraft handled. Further, FAA does not expect to incur additional equipment costs in implementing the ARSA program. In some instances, previously adopted plans to replace or modify older existing equipment may be rescheduled to accommodate the ARSA program. However, no new equipment is expected to be required as a result of the ARSA program.

Several commenters, including AOPA, disagreed with the FAA's conclusion that the additional air traffic could be accommodated with existing manpower at locations where TRSA participation was low. The FAA's conclusion for the total program was in part based upon the fact that participation in the existing TRAS's was quite high and, therefore, an increase from the present levels to 100 percent would not be a significant change. The commenters, while not agreeing with this conclusion, claimed that the FAA's rationale did not apply where participation was low and thus additional manpower would be needed at these locations if ARSA was designated. The FAA recognizes that participation in the TRAS program is relatively low at some of the candidate locations. However, this is in large part due to the controllers' walkout of 1981 and the subsequent reduction in fully qualified controllers which led to the discontinuance of TRSA services. A sufficient number of controllers is assigned at the facilities to which the commenters refer and those facilities are ready to provide the service to the increased number of pilots. This factor was considered by the FAA in its initial evaluation of the ARSA program.

The Soaring Society of America (SSA) objected to the ARSA program because it does not provide the same level of safety and service to all classes of aviation. As with other regulations, this rule affects different operators in different ways depending on their respective need to operate in controlled airspace or near the airports involved. The FAA does not agree that this variation in impact is reason not to adopt a rule which benefits the majority of users.

The SSA claimed that the ARSA rule should state that the ultimate responsibility for separation from other aircraft operating in visual flight rule (VFR) conditions rests with the pilot. While the FAA agrees that such is the

case, the agency does not agree that the ARSA rule must so state. Unless a new or amending provision to the Federal Aviation Regulations (FAR) specifically deletes, amends, or supersedes existing sections, the existing regulations still apply. The ARSA rule (50 FR 9252, 9257, March 6, 1985) did not alter the sections of the FAR that established that level of responsibility.

AOPA faulted the FAA's implementation of the ARSA program. The FAA stated in the proposal that the benefits of standardization and simplicity were nonquantifiable, and that the safety benefits anticipated by the FAA were not attributable to any given candidate but were based upon implementation of the program on a national basis. According to AOPA, this evidenced the need to further evaluate the program at the current locations so that benefits could be individually assessed and each candidate evaluated accordingly. The FAA does not agree. The benefits of standardization and simplicity would always be nonquantifiable, regardless of the amount of evaluation, yet they received considerable emphasis by the NAR Task Group. Overall national midair collision accident rates are relatively low, and accident rates within individual categories of airspace are lower still. Additionally, accidents at specific locations are random occurrences. Therefore, estimates of potential reductions in absolute accident rates resulting from the ARSA program cannot realistically be disaggregated below the national level. Additionally, the FAA does not believe that these considerations should be cause for delaying a program that was recommended by a majority of the members of the National Airspace Review, and which has already produced positive results at most of the designated locations.

Numerous commenters also objected to the proposals based upon their belief that the volume of air traffic in several of the proposed locations was too great for the ARSA program. The FAA believes that such a point argues strongly for the establishment of an ARSA rather than the converse.

Some commenters, including AOPA, predicted that user costs incurred due to delays will be greater than expected by the FAA, and that these costs will be experienced more at some sites than at others. In the NPRM, FAA acknowledged that initial delay problems would vary from site to site, that at some facilities the transition process is expected to go very smoothly, and that at other sites delay problems will dominate the initial adjustment period. Any delay that may result is expected to be transitory in nature in that actual delays will be reduced as pilots and controllers become experienced with ARSA procedures. This has been the experience at those locations where ARSA's have been in effect for the longest period of time, and is the trend at most of the locations that have been more recently designated.

Several comments claimed that some aircraft would have to purchase two-way radios in order to enter the ARSA and land at or depart from airports within the ARSA. The FAA does not agree. Each primary airport receiving ARSA designation has an airport traffic area requiring two-way radio communications at present. Therefore, no additional cost will be incurred for purchase of radios for aircraft landing at or departing from primary airports receiving ARSA designation.

Further, some commenters, including AOPA, expressed concern that older 360 channel transceivers will not be adequate to operate within an ARSA. Frequencies compatible with 360 channel transceivers are available at all ARSA locations. Therefore, operators of 360 channel equipment will not need to install new radios to operate within an ARSA.

AOPA and other commenters stated that the proposed ARSA's would derogate rather than improve safety, as a result of increased frequency congestion, pilots concentrating on their instruments and placing too much reliance upon ATC rather than "see and avoid," and the compression of air traffic into narrow corridors as pilots elect to circumnavigate an ARSA rather than receive ARSA services. In addition to increasing the risk of aircraft collision, the commenters claimed that compression would increase the impact of aircraft noise on underlying communities and cause aircraft to be flown closer to obstructions.

As indicated above, while an increased number of aircraft will be using radio frequencies, the amount of "frequency time" needed for each aircraft is reduced in an ARSA compared to the current TRSA. This has been the experience of the FAA at the current ARSA facilities.

AOPA claims that since the communications and readback procedures in ARSA's do not differ from those utilized in TRSA's there would be no reduction in "frequency time" needed for each pilot to acknowledge instructions or information, and thus, the partial offset indicated by the FAA was not justified. The offset is based upon fewer as well as shorter transmissions for each pilot; thus, the FAA does not agree with this claim.

The FAA evaluated the flow of air traffic around the Austin, TX, and Columbus, OH, ARSA's during the confirmation period to determine if compression was occurring. This evaluation was performed by observing the radar at Austin, TX, and by both radar observations and the use of extracted computer data at Columbus, OH. Following the designation of an ARSA at Baltimore/Washington International Airport (BWI), the FAA evaluated the flow of air traffic there for a period of 90 days by observing the radar and extracting the computer data to determine if compression was occurring. Additionally, the FAA has continually monitored for the possibility of compression at all recently designated locations. Compression has not been detected at any of these locations. However, compression of air traffic is a site-specific effect that could occur at a particular location regardless of its absence elsewhere. Thus, although the FAA does not believe compression of traffic will occur at any of the proposed airports, the agency will continue to monitor each designated ARSA and make adjustments if necesssary.

AOPA, and other commenters claimed that the FAA provided no demonstrable evidence that the ARSA program would improve aviation safety. The FAA continues to believe the implementation of the ARSA program will enhance aviation safety. The program requires two-way radio communication between ATC and all pilots within the designated areas. Air traffic controllers will thus be in a much improved position to issue complete traffic information to the pilots involved, and thus, safety will be improved.

AOPA, and several other commenters, requested that VFR corridors be established at several of the subject locations along routes that are currently contained within an airport traffic area (ATA). The NAR Task Group noted in their evaluation of the TRSA program that under FAR § 91.87 pilots operating under VFR to or from a satellite airport within an ATA are excluded from the two-way radio communications requirement. The Task Group noted that this was acceptable until the volume of air traffic at the primary airport dictated the installation of a radar approach control. The Task Group recommended, and the FAA adopted, the ARSA program as a safety improvement addressing this problem. Thus, the FAA does not believe provisions for VFR

corridors that penetrate an ATA in most cases are warranted or in keeping with that recommendation.

One commenter claimed that the grouping of ARSA's, such as that adopted in the Sacramento Valley area, would create "squeezing" of traffic in the corridors between the blocks of ARSA airspace. One area in question, between Sacramento and Beale Air Force Base (AFB), is approximately 20 miles wide. The FAA does not agree that "squeezing" will occur in this area. Additionally, other user organizations have requested VFR corridors between adjacent or grouped ARSA's and these ARSA's have been modified to accommodate this request.

AOPA and others commented that several of the proposals will require pilots to violate FAR § 91.79 (14 CFR § 91.79) regarding minimum safe altitudes. The section states in part, "Except when necessary for takeoff or landing, no person may operate an aircraft below * * * an altitude of 1,000 feet above the highest obstacle within a horizontal radius of 2,000 feet of the aircraft [when over any congested area of a city, town, or settlement, or over any open air assembly of persons]." The commenters claim that the 1,200-foot base altitude of the 5- to 10-mile portion of the ARSA will force pilots to violate FAR § 91.79 where obstacles extend more than 200 feet above the ground. There are two alternatives available to pilots in such a situation which permit compliance with the regulation. First, pilots may participate in ARSA services and thus not be limited to the 1,200-foot base, and second, a pilot may deviate 2,000 feet horizontally from the obstacle.

Furthermore, AOPA claims that the above response does not adequately respond to the issue. The claim that deviations of 2,000 feet horizontally would increase workload and reduce the efficiency of see-and-avoid, and thus, potentially reduce safety. The FAA does not encourage deviation but encourages participation which will not require deviation and will result in controllers providing radar assistance for see-and-avoid.

Several commenters noted that the proposal did not contain an environmental assessment. Under existing environmental regulations, the proposed establishment of a Terminal Control Area (TCA) or a TRSA does not require an environmental assessment. The agency environmental regulations have not been amended to reflect ARSA procedures. However, because the potential environmental impact and regulatory effects of ARSA designation fall between those of the TCA and TRSA designations, the FAA finds that no environmental assessment is required for an ARSA designation.

AOPA, the Experimental Aircraft Association (EAA), and other commenters indicated that the FAA had failed to demonstrate a need for the ARSA program itself, as well as a need for several of the individual proposed locations. Additionally, comments were received that faulted the standard configuration and some of the features of the ARSA. Most of these comments went beyond the scope of the subject proposal and were addressed when the FAA adopted the recommendation of National Airspace Review (NAR) Task Group 1-2.2 (50 FR 9252, March 6, 1985). However, the FAA believes the need for the ARSA program was adequately demonstrated by the task group that reviewed the TRSA program and recommended the ARSA as the former's replacement. The task group faulted the TRSA prgram in several of its aspects and through consensus agreement determined the preferred features of the ARSA prior to making their recommendation to the FAA. Justification for the ARSA program has been the subject of previous FAA rulemaking, and the program was adopted after consideration of public comment. Response to comments on ARSA's at particular locations is made below.

AOPA, EAA, and others commented that several of the proposed ARSA's failed to meet the criteria for designation or that the FAA was changing the criteria. The FAA has not departed from the NAR criteria which would replace TRSA with ARSA at airports with an operating control tower served by a Level III, IV, or V radar approach control facility. The criteria for this airport was recommended by the NAR Task Group and adopted by the FAA. Namely, "* * * excluding TCA locations, all airports with an operational airport traffic control tower and currently contained within a TRSA serviced by a Level III, IV, or V radar approach control facility shall have [an ARSA] designated; unless a study indicates that such designation is inappropriate for a particular location." (49 FR 47184, November 30, 1984).

Several commenters suggested the top of the ARSA be lowered from 4,000 feet above field elevation. Absent strong justification for lowering this altitude, the FAA has not adopted these recommendations.

Several commenters, including AOPA and EAA, indicated that at several of the proposed ARSA's the TRSA was working quite well and that there was no need to change something that was working. The FAA acknowledges that TRSA's are functional and beneficial, to a point. However, the NAR Task Group did not fault individual TRSA locations but the TRSA program itself and recommended its replacement. The FAA concurred with that assessment and has determined that the ARSA program is an improvement over the TRSA program from the standpoints of both safety and service. Thus, the quality of service being provided at TRSA locations should not constitute a roadblock to improvement.

Several commenters claimed the reduced separation standards of the ARSA program would derogate rather than enhance safety. The elimination of the Stage III separation requirements was recommended by users, all of whom are vitally interested in aviation safety, and adopted by the FAA. This aspect of the ARSA program received considerable FAA attention during the confirmation period at Austin, TX, and Columbus, OH. The FAA agrees with the task group that the Stage III separation standards are not needed for safety in a mandatory participation area.

Several commenters requested that the ARSA be described in statute rather than nautical miles. Numerous user organizations and the NAR itself have recommended that the FAA adopt nautical-mile descriptions rather than statute. It is the intention of the FAA to establish all new descriptions according to that recommendation.

Several commenters objected to proposals where the ARSA was in proximity to other airports. According to these commenters, pilots would not know whether they should be in contact with the ARSA approach control facility or in contact with the control tower at the secondary airport, or on unicom. The FAA does not view this situation as different from that existing at many of these locations today. Through pilot education programs and experience with ARSA procedures, this situation will improve. Also, as at present, when a pilot contacts the wrong FAA facility, the controllers will give appropriate instructions.

AOPA, and other commenters objected to several of the proposed ARSA's based upon the claim that the FAA had failed to evaluate the cumulative effect of the proposed ARSA's and other regulatory airspace. The evaluation for each ARSA included all factors known to the FAA, including the proximity of other regulatory airspace.

Underlying a great many of the comments received was the idea that some provision should be made so that

pilots could continue their current practices without contacting the responsible ATC facility. While the FAA has made modifications from the standard ARSA in cases where circumstances warrant, the basic thrust of the ARSA program is to require two-way communication with the responsible approach control facility, and not to make modifications in the program to provide for nonparticipation.

Information on ARSA's following the establishment of a new site will also be disseminated at aviation safety seminars conducted throughout the country by various district offices. These seminars are regularly provided by the FAA to discuss a variety of aviation safety issues, and, therefore, will not involve additional costs strictly as a result of the ARSA program.

SSA faulted the FAA for using the aviation safety seminars for pilot education on ARSA's. They claim these seminars do not reach many pilots and the seminars are reserved during this year for the FAA "Back to Basics" program. The FAA does not agree. The aviation safety seminars are for all pilots and for education on all aspects of aviation which would include the ARSA program.

Additionally, no significant costs are expected to be incurred as a result of the follow-on user meetings. These meetings are being held at public or other facilities which are being provided free of charge or at nominal cost. Further, because these meetings are being conducted by local FAA facility personnel, no travel, per diem, or overtime costs will be incurred by regional or headquarters personnel.

SSA commented that the FAA should take into consideration the unique operating characteristics of gliders in defining the ARSA airspace at some locations. The FAA has modified the configurations of the ARSA at some locations where glider operations would be adversely affected by a standard configuration. Additionally, comparable accommodations have been facilitated through local agreements at several ARSA locations.

Numerous commenters objected to the ARSA designations claiming they would simply provide the FAA with the basis for additional regulatory restrictions. The FAA does not believe this to be a valid objection. While the agency has no current plans for further regulatory action which imposes additional restrictions, such action, if it should ever become a reality, would be the subject of additional rulemaking and would of necessity be judged on its own merits, as should these proposals.

The Air Line Pilots Association (ALPA) concurred with the proposal as an improvement in operational efficiency and a significant contribution to a reduction of midair collision potential.

The Air Transport Association (ATA) endorsed the proposed designations as an improvement in safety with specific comments indicated below.

The General Aviation Manufacturers Association endorsed the ARSA's as an improvement in safety and concurred with the FAA's philosophy regarding some deviation from the standard model.

Comments were received which were supportive of each of the ARSA's addressed here as an improvement in aviation safety, and stating that participation by all pilots was only equitable and that normal safety concerns dictated mandatory two-way communications. The FAA agrees.

Comments on Specific Locations

Akron-Canton Regional Airport, OH

Several commenters objected to this ARSA on the grounds of reduced separation standards, controller workload and unsubstantiated safety enhancements. The FAA does not agree with these objections as stated previously in this document.

Several commenters recommended the base altitude between five and ten miles should be raised to 3,000 feet to accommodate towers and other obstructions as well as FAR requirements related to minimum flight altitudes. The FAA does not agree that the proposed base altitude would place unsafe restrictions on pilots or prohibit compliance with applicable FAR's. Sufficient lateral maneuvering airspace for circumnavigating obstacles, as well as sufficient vertical airspace to overfly areas in compliance with the FAR's, exists under the original proposal.

SSA, while acknowledging that soaring operations were based beyond the 10-mile boundary of the ARSA, suggested the implementation of the ARSA may have an impact on soaring activities. The FAA will continue to cooperate with local glider operators and cross country operations to ensure safety with the minimum impact on both operations.

AOPA and others objected to establishment of an ARSA based on insufficient controller workforce being available to accommodate changes in air traffic workload. The FAA does not believe a significant increase in workload will result from implementation of an ARSA as discussed previously; however, the FAA does recognize the necessity to have sufficient resources in place to ensure that a full capability exists to provide services associated with the ARSA program. Although adequate staffing levels are established for the Akron-Canton ATC facility, an unforeseen loss of personnel resulting from transfers and retirements has created less than optimum conditions. The FAA prefers to allow sufficient time for this situation to stabilize prior to implementing new procedures and airspace requirements. The staffing levels are adequate, with recently assigned personnel progressing through various levels of training and qualification, to enable an implementation date of October 20, 1988. This action is in consonance with objectives and policies stated in the ARSA program wherein the FAA assured the public it would evaluate and take appropriate action regarding each location's unique requirements and issues related to ARSA implementation.

AOPA recommended a cutout for Lockridge Airport, a private airport located approximately 4½ miles south of Akron-Canton Regional Airport. The FAA does not concur. Private airports generally do not have sufficient transit operations to warrant exclusionary action. Alternate methods, be they through agreement or individual coordination, may be utilized to accommodate nonradio equipped flights.

Grand Rapids Kent County International Airport, MI

Congressman Paul B. Henry, AOPA and others recommended a cutout around the Somerville Airport. This airport has 11 based aircraft of which four are not radio equipped. The FAA does not consider the level of flight activity nor the number of nonradio equipped aircraft to be sufficient as to warrant exclusion from the ARSA inner area. The intent of the ARSA program is to enhance safety in the terminal area through increased participation and increased ATC awareness of all flight operations in the terminal area. Sufficient alternative methods exist to accommodate the nonradio aircraft flights without modifying the ARSA.

SSA, while acknowledging that soaring operations were based beyond the 10-mile boundary of the ARSA, suggested the implementation of the ARSA may have an impact on soaring activities. The FAA will continue to cooperate with local glider operators and cross country operations to ensure safety with the minimum impact on both operations.

Rochester-Monroe County Airport, NY

SSA, while acknowledging that soaring operations were based beyond the 10-mile boundary of the ARSA, suggested the implementation of the ARSA may have an impact on soaring activities. The FAA will continue to cooperate with local glider operators and cross country operations to ensure safety with the minimum impact on both operations.

Other comments received were in suppport of this ARSA.

Toledo Express Airport, OH

AOPA recommended cutouts for private airports within the inner area. FAA does not support this exclusionary action for reasons previously stated above.

AOPA recommended a reduction of the ARSA to accommodate VFR flights operating north/south over the Waterville VORTAC. This NAVAID, located approximately 11 miles southeast of Toledo Express Airport, may serve as a navigational reference to pilots transiting the area; however, participation in the services of the ARSA program are not mandatory in this outer area. The FAA does not support an exclusion and encourages aircraft utilizing this "VFR flyway" to participate in the ARSA services particularly if, as has been reported, a substantial number of aircraft operations are being conducted along this route in close proximity to Toledo Express Airport.

SSA, while acknowledging that soaring operations were based beyond the 10-mile boundary of the ARSA, suggested the implementation of the ARSA may have an impact on soaring activities. The FAA will continue to cooperate with local glider operators and cross country operations to ensure safety with the minimum impact on both operations.

Other commenters, including AOPA, addressed issues which were of a national scope and were addressed in the general comments above.

Other Comments

A number of other comments were received addressing matters beyond the scope of these proposals, such as charting, the number of frequencies depicted on a chart, the general design features of an ARSA, etc. The FAA will give consideration to all of the points raised in these comments but will not address them as a part of this rulemaking.

Regulatory Evaluation

Those comments that addressed information presented in the Regulatory Evaluation of the notice have been discussed above. The Regulatory Evaluation of the notice, as clarified by the "Discussion of Comments" contained in the preamble to the final rule, constitutes the Regulatory Evaluation of the final rule. Both documents have been placed in the regulatory docket.

Briefly, the FAA finds that a direct comparison of the costs and benefits of this rule is difficult for a number of reasons. Many of the benefits of the rule are nonquantifiable, especially those associated with simplification and standardization of terminal airspace procedures. Further, the benefits of standardization result collectively from the overall ARSA program, and as discussed previously, estimates of potential reductions in absolute accident rates resulting from the ARSA program cannot realistically be disaggregated below the national level. Therefore, it is difficult to specifically attribute these benefits to individual ARSA sites. Finally, until more experience has been gained with ARSA operations, estimates of *both* the efficiency improvements resulting in time savings to aircraft operators, and the potential delays resulting from mandatory participation, will be quite preliminary.

ATC personnel at some facilities anticipate that the process will go very smoothly, that delays will be minimal, and that efficiency gains will be realized from the start. Other sites anticipate that delay problems will dominate the intitial adjustment period.

FAA believes these adjustment problems will only be temporary, and that once established, the ARSA program will result in an overall improvement in efficiency in terminal area operations at those airports where ARSA's are established. These overall gains which FAA expects for the ARSA sites established by this rule typify the benefits which FAA expects to achieve nationally from the ARSA program. These benefits are expected to be achieved without additional controller staffing or radar equipment costs to the FAA.

In addition to these operational efficiency improvements, establishment of these ARSA sites will contribute to a reduction in midair collisions. The quantifiable benefits of this safety improvement could range from less than $100 thousand, to as much as $300 million, for each accident prevented.

For these reasons, FAA expects that the ARSA sites established in this rule will produce long term, ongoing benefits which will exceed their costs, which are essentially transitional in nature.

Regulatory Flexibility Determination

Under the terms of the Regulatory Flexibility Act, the FAA has reviewed this rulemaking action to determine what impact it may have on small entities. FAA's Regulatory Flexibility Determination was published in the NPRM. Some of the small entities which could be potentially affected by implementation of the ARSA program include the fixed-base operators, flight schools, agricultural operations and other small aviation businesses located at satellite airports located within 5 miles of the ARSA center. If the mandatory participation requirement were to extend down to the surface at these airports, where under current regulations participation in the TRSA and radio communication with ATC is voluntary, operations at these airports might be altered, and some business could be lost to airports outside of the ARSA core. Because FAA is excluding some satellite airports located within the 5-mile ring to avoid adversely impacting their operations, and in other cases will achieve the same purposes through Letters of Agreement between ATC and the affected airports establishing special procedures for operating to and from these airports, FAA expects to eliminate virtually any adverse impact on the operations of small satellite airports which potentially could result from the ARSA program. Similarly, FAA expects to eliminate potential adverse impacts on existing flight training practice areas, as well as soaring, ballooning, parachuting, ultralight, and banner towing activities, by developing special procedures which will accommodate these activities through local agreements between ATC facilities and the affected organizations. For these reasons, the FAA has determined that this rulemaking action is not expected to affect a substantial number of small entities. Therefore, the FAA certifies that this regulatory action will not result in a significant economic impact on a substantial number of small entities.

The Rule

This action designates Airport Radar Service Areas (ARSA) at Akron-Canton Regional Airport, OH; Grand Rapids Kent County International Airport, MI; Rochester-Monroe County Airport, NY, and Toledo Express Airport, OH. Each location designated is a public airport at which a nonregulatory Terminal Radar Service Area (TRSA) is currently in effect. Establishment of these ARSA's will require that pilots maintain two-way radio communication with air

traffic control (ATC) while in the ARSA. Implementation of ARSA procedures at these locations will reduce the risk of midair collision in terminal areas and promote the efficient control of air traffic.

For the reasons discussed above, the FAA has determined that this regulation (1) is not a "major rule" under Executive Order 12291; and (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979).

List of Subjects in 14 CFR Part 71

Aviation Safety, airport radar service areas.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, Part 71 of the Federal Aviation Regulations (14 CFR Part 71) is amended, as follows:

PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS

1. The authority citation for Part 71 continues to read as follows:

Authority: 49 U.S.C. 1348(a), 1354(a), 1510; E.O. 10854; 49 U.S.C. 106(g) (Revised, Pub. L. 97-449, January 12, 1983); 14 CFR 11.69.

§ 71.501 [Amended]

2. Section 71.501 is amended as follows:

Akron-Canton Regional Airport, OH [New]

That airspace extending upward from the surface to and including 5,200 feet MSL within a 5-mile radius of the Akron-Canton Regional Airport (lat. 40°55'01"N., long. 81° 26'30"W); and that airspace extending upward from 2,500 feet MSL to 5,200 feet MSL within a 10-mile radius of the airport. This airport radar service area is effective during the specific days and hours of operation of the Akron Tower and Approach Control as established in advance by a Notice to Airmen. The effective dates and times will thereafter be continuously published in the Airport/Facility Directory.

Grand Rapids Kent County International Airport, MI [New]

That airpspace extending upward from the surface to and including 4,800 feet MSL within a 5-mile radius of the Kent County International Airport (lat. 42°52'57"N. long. 85°31'26"W.); and that airspace extending upward from 2,000 feet MSL to 4,800 feet MSL within a 10-mile radius of the airport. This airport radar service area is effective during the specific days and hours of operation of the Grand Rapids Tower and Approach Control as established in advance by a Notice to Airmen. The effective dates and times will thereafter be continuously published in the Airport/Facility Directory.

Rochester-Monroe County Airport, NY [New]

That airspace extending upward from the surface to and including 4,600 feet MSL within a 5-mile radius of the Rochester-Monroe County Airport (lat. 43°07'08"N., long 77° 40'22"W.); and that airspace extending upward from 2,100 feet MSL to 4,600 feet MSL within a 10-mile radius of the airport.

Toledo-Express Airport, OH [New]

That airspace extending upward from the surface to and including 4,700 feet MSL within a 5-mile radius of the Toledo-Express Airport (lat. 41°35'15"N., long. 83°48'19"W.); and that airspace extending upward from 2,000 feet MSL to and including 4,700 feet MSL within a 10-mile radius of the airport. This airport radar service area is effective during the specific days and hours of operation of the Toledo Tower and Approach Control as established in advance by a Notice to Airmen. The effective dates and times will be thereafter continuously published in the Airport/Facility Directory.

Issued in Washington, DC. on September 14, 1987.

Signed by:

Daniel J. Peterson,

Manager, Airspace-Rules and Aeronautical Information Division.

[FR Doc. 87-21638 Filed 9-17-87; 8:45 am]

BILLING CODE 4910-13-M

Reader Aids

Federal Register

Vol. 52, No. 181

Friday, September 18, 1987

INFORMATION AND ASSISTANCE

SUBSCRIPTIONS AND ORDERS

Subscriptions (public)	202-783-3238
Problems with subscriptions	275-3054
Subscriptions (Federal agencies)	523-5240
Single copies, back copies of FR	783-3238
Magnetic tapes of FR, CFR volumes	275-1184
Public laws (Slip laws)	275-3030

PUBLICATIONS AND SERVICES

Daily Federal Register

General information, index, and finding aids	523-5227
Public inspection desk	523-5215
Corrections	523-5237
Document drafting information	523-5237
Legal staff	523-4534
Machine readable documents, specifications	523-3408

Code of Federal Regulations

General information, index, and finding aids	523-5227
Printing schedules and pricing information	523-3419

Laws 523-5230

Presidential Documents

Executive orders and proclamations	523-5230
Public Papers of the President	523-5230
Weekly Compilation of Presidential Documents	523-5230

United States Government Manual 523-5230

Other Services

Library	523-5240
Privacy Act Compilation	523-4534
TDD for the deaf	523-5229

FEDERAL REGISTER PAGES AND DATES, SEPTEMBER

CFR PARTS AFFECTED DURING SEPTEMBER

At the end of each month, the Office of the Federal Register publishes separately a List of CFR Sections Affected (LSA), which lists parts and sections affected by documents published since the revision date of each title.

1 CFR

456.....34373

3 CFR

Proclamations:

5697.....34193
5698.....34195
5699.....34197
5700.....34199
5701.....34761

Executive Orders:

8248 (Amended by EO 12608).....34617
8512 (Amended by EO 12608).....34617
8744 (Revoked by EO 12608).....34617
9094 (Amended by EO 12608).....34617
9830 (Amended by EO 12608).....34617
9979 (Amended by EO 12608).....34617
10289 (Amended by EO 12608).....34617
10484 (Amended by EO 12608).....34617
10499 (Amended by EO 12608).....34617
10521 (Amended by EO 12608).....34617
10530 (Amended by EO 12608).....34617
10582 (Amended by EO 12608).....34617
10608 (Amended by EO 12608).....34617
10624 (Amended by EO 12608).....34617
10786 (Amended by EO 12608).....34617
10797 (Amended by EO 12608).....34617
10840 (Amended by EO 12608).....34617
10841 (Amended by EO 12608).....34617
10880 (Revoked by EO 12608).....34617
10903 (Amended by EO 12608).....34617
10909 (Amended by EO 12608).....34617
11012 (Amended by EO 12608).....34617
11023 (Amended by EO 12608).....34617
11030 (Amended by EO 12608).....34617
11034 (Amended by EO 12608).....34617
11044 (Amended by EO 12608).....34617
11047 (Amended by EO 12608).....34617
11060 (Amended by EO 12608).....34617
11077 (Amended by EO 12608).....34617
11079 (Amended by EO 12608).....34617
11140 (Amended by EO 12608).....34617
11157 (Amended by EO 12608).....34617
11377 (Revoked by EO 12608).....34617
11390 (Amended by EO 12608).....34617
11440 (Amended by EO 12608).....34617
11467 (Amended by EO 12608).....34617
11480 (Amended by EO 12608).....34617
11490 (Amended by EO 12608).....34617
11561 (Amended by EO 12608).....34617
11580 (Amended by EO 12608).....34617
11583 (Amended by EO 12608).....34617
11609 (Amended by EO 12608).....34617
11623 (Amended by EO 12608).....34617
11644 (Amended by EO 12608).....34617
11687 (Amended by EO 12608).....34617
11747 (Amended by EO 12608).....34617
11755 (Amended by EO 12608).....34617
11758 (Amended by EO 12608).....34617
11776 (Amended by EO 12608).....34617
11800 (Amended by EO 12608).....34617
11845 (Amended by EO 12608).....34617
11880 (Amended by EO 12608).....34617
11899 (Amended by EO 12608).....34617
11911 (Revoked by EO 12608).....34617
11990 (Amended by EO 12608).....34617
12034 (Revoked by EO 12608).....34617
12048 (Amended by EO 12608).....34617

29 CFR

1601.....34215
1625.....33809
1910.....34460
1952.....34381, 35068
2619.....34773
2676.....34774
Proposed Rules:
2550.....33508
2616.....33318
2617.....33318

30 CFR

46.....33234
47.....33234
Proposed Rules:
57.....33956
202.....33247
203.....33247
206.....33247
207.....33247
210.....33247
241.....33247
750.....34394
842.....34050
843.....34050
901.....34929
916.....34930
917.....34932
931.....33956

31 CFR

16.....35071

32 CFR

59.....34215
165.....34639
199.....32992, 34775
706.....35237
728.....33718

33 CFR

3.....33809
67.....33809
80.....33809
100.....33809
110.....33809
117.....33812
147.....33809
150.....33809
161.....33585, 33809
162.....33809
165.....33809, 34905, 35080
166.....33587, 33809
167.....33587, 33809
177.....33809
207.....34775
Proposed Rules:
110.....34815
117.....33434, 33836, 34686
162.....34933
165.....33435, 33436, 34687, 34816
241.....34934

34 CFR

326.....34368
602.....33908
603.....33908

36 CFR

1.....35238
2.....35238
5.....35238
7.....34776, 34777
701.....34383
903.....34384
1220.....34134
1228.....34134
Proposed Rules:
251.....33837, 33839
404.....33957
1190.....34955

37 CFR

Proposed Rules:
1.....34080

38 CFR

3.....34906
21.....35240
36.....34217, 34910
Proposed Rules:
13.....33248

39 CFR

10.....33409
111.....34778
Proposed Rules:
20.....34816
111.....34243

40 CFR

52.....32918, 33590, 33592, 33933, 34384, 35081
60.....33316, 33934, 34639, 34868, 35083-35091
61.....35084-35092
136.....33542
180.....33236, 33238, 33903, 33935, 34910-34913
228.....34218
270.....23936, 34779
305.....33812
306.....33812
795.....32990
798.....34654
799.....32990
Proposed Rules:
22.....33960
24.....33960
50.....34243
52.....33250, 33252, 33437, 33840, 34243, 35279
62.....33605
80.....33438
86.....33438, 33560
133.....35210
136.....33547
180.....33903, 34343
261.....33439, 35279
300.....33446
600.....33438
721.....33606
761.....33680, 35350

42 CFR

36.....35044
405.....33034, 35350
412.....33034, 33168, 35350
413.....32920, 33034, 35350
466.....33034, 35350
Proposed Rules:
59.....33209
405.....34244
410.....34244

43 CFR

2800.....34456
Public Land Orders:
6649 (corrected by PLO 6657).....33239
6653.....32990
6657.....33239
Proposed Rules:
2620.....35119
3160.....33247

44 CFR

5.....33410
59.....33410
60.....33410
64.....35241
361.....33814
Proposed Rules:
5.....33960

45 CFR

74.....33239
Proposed Rules:
233.....34343
302.....34689
303.....34689
305.....34689

46 CFR

581.....33936
Proposed Rules:
25.....33448
38.....33841
54.....33841
98.....33841
151.....33841

47 CFR

36.....32922
67.....32922
73.....33240-33243, 33593, 34781, 34914
76.....32923
80.....35243, 35246
Proposed Rules:
Ch. I.....33962
36.....32937
63.....34818
67.....32937
73.....33253-33256, 33609, 33610, 34259, 34260, 34818
80.....33610
90.....35281

48 CFR

202.....34781
203.....34386, 34781
204.....34781
205.....34781
206.....34781
207.....34781
208.....33411, 34781, 34866
209.....34386
210.....34781
213.....33413, 34781
214.....34781
215.....34781
217.....33415, 34781
222.....34781
225.....34781
233.....34781
244.....34781
245.....34781
252.....34386, 34781
253.....33413
507.....35092
519.....34387
552.....35092
553.....34387
571.....33416
1801.....34790
1802.....34790
1803.....34790
1804.....34790
1805.....34790
1810.....34790
1812.....34790
1813.....34790
1815.....34790
1816.....34790
1822.....34790
1823.....34790
1832.....34790
1842.....34790
1845.....34790
1847.....34790
1852.....34790
1870.....34790
2801.....34389
2806.....34389
2808.....34389
2809.....34389
2827.....34389
2834.....34389
2852.....34389
Proposed Rules:
Ch. 53.....34692
31.....35191
209.....33450
225.....33450
252.....33450

49 CFR

192.....32924
383.....32925
543.....33821
571.....33416, 34654
1181.....33418
1207.....33418
1244.....33418
1249.....33418
1313.....33419
Proposed Rules:
172.....33611, 33906
173.....33906
174.....33906
175.....33906
176.....33906
177.....33906
178.....33906
179.....33906
1002.....34818
1039.....33257

50 CFR

17.....32926, 34914, 35034, 35366
20.....35248
285.....34655
301.....33831
611.....33593
642.....33594
651.....35093
653.....34918
661.....33244, 34807, 35263
663.....33593
675.....33245, 34656
Proposed Rules:
17.....32939, 33849, 33850, 33980, 34396, 34966, 35282
611.....32942
644.....35119
675.....32942

LIST OF PUBLIC LAWS

Note: No public bills which have become law were received by the Office of the Federal Register for inclusion in today's **List of Public Laws.**

Last List August 31, 1987